

HOUSE BILL NO. 674

INTRODUCED BY FABREGA, NILSON, VINCENT, R. MANNING, LEE, GOULD,
RYAN, DUSSAULT

IN THE HOUSE

February 7, 1981	Introduced and referred to Committee on State Administration.
February 10, 1981	Fiscal note requested.
February 12, 1981	Fiscal note returned.
February 23, 1981	Committee recommend bill do pass as amended. Report adopted.
	Statement of intent attached.
	Revised fiscal note requested.
February 24, 1981	Revised fiscal note returned.
	Bill printed and placed on members' desks.
February 25, 1981	Second reading, do pass.
	Bill segregated.
	Rereferred to Committee on Appropriations.
March 7, 1981	Revised fiscal note requested.
March 11, 1981	Revised fiscal note returned.
March 30, 1981	On motion rules suspended and and bill allowed to be transmitted on the 75th legislative day.
	Revised fiscal note requested.
March 31, 1981	Committee recommend bill do pass as amended. Report adopted.

March 31, 1981	Revised fiscal note returned.
April 4, 1981	Second reading, do pass.
	Transmittal deadline extended to the 76th legislative day.
April 6, 1981	Correctly engrossed.
	Third reading, passed. Ayes, 94; Noes, 0. Transmitted to Senate.

IN THE SENATE

April 7, 1981	By motion and consent bill allowed to be received and considered this session.
	Introduced and referred to Committee on Finance and Claims.
April 10, 1981	Revised fiscal note requested.
April 13, 1981	Revised fiscal note returned.
April 14, 1981	Committee recommend bill be concurred in. Report adopted.
April 15, 1981	Second reading, concurred in.
April 16, 1981	Third reading, concurred in. Ayes, 47; Noes, 3.

IN THE HOUSE

1 House BILL NO. 674
2 INTRODUCED BY Ziggy Nelson James
3 VINCENT RICHARD Hanning Lee Sheld Ryan
4 A BILL FOR AN ACT ENTITLED "AN ACT CREATING A
5 FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM AND PROVIDING FOR
6 ITS ADMINISTRATION; AMENDING SECTIONS 19-9-1007, 19-11-401,
7 19-11-403, 19-11-504, 19-11-512, 19-11-514, 19-11-606, and
8 19-12-301, MCA; REPEALING SECTIONS 19-11-301 THROUGH
9 19-11-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12
13 NEW SECTION. Section 1. Short title. [Sections 1
14 through 44] may be cited as the "Montana Firefighters'
15 Unified Retirement Act".
16
17 NEW SECTION. Section 2. Purpose -- application of
18 prior law. (1) Because cities other than those of the first
19 or second class have on [the effective date of this act]
20 fire department relief associations, the legislature finds
21 and declares that the law regarding these associations
22 cannot be repealed. It is the express intention of the
23 legislature to allow two separate and distinct retirement
24 systems to exist. The first, which includes fire department
25 relief associations, applies to cities other than those of
the first or second class that wish to adopt it. The second,
created by [sections 1 through 44], applies to cities of the

1 first or second class and other incorporated cities
2 employing part- or full-paid firefighters that wish to adopt
3 it.

4 (2) Title 19, chapter 11, may not be applied in any
5 way to a city operating under the plan created by [sections
6 1 through 44].

7 NEW SECTION. Section 3. Montana firefighters' unified
8 retirement system established. Effective July 1, 1982, a
9 Montana firefighters' unified retirement system is
10 established and governed by the provisions of [sections 1
11 through 44].

12 NEW SECTION. Section 4. Definitions. In [sections 1
13 through 44], unless the context requires otherwise, the
14 following definitions apply:

15 (1) "Administrator" means the administrator employed
16 by the board under [section 11].

17 (2) "Board" means the retirement board described in
18 [section 9].

19 (3) "Employer" means any city of the first or second
20 class or an incorporated city employing full- or part-paid
21 firefighters that elects to join this plan under [section
22 7].

23 (4) "Full-paid firefighter" means a person appointed
24 as a firefighter under 7-33-4106.

25 (5) "Member" means a person who is entitled to a

-2- INTRODUCED BILL
HB 674

1 retirement allowance by virtue of his service to an employer
 2 as a full- or part-paid firefighter.

3 (6) "Monthly salary" means:

4 (a) for a full-paid firefighter, the regular monthly
 5 compensation, excluding overtime and payments in lieu of
 6 sick and annual leave, paid by an employer for his service
 7 as a firefighter;

8 (b) for a part-paid firefighter employed by a city of
 9 the second class, 15% of the average regular monthly
 10 compensation, excluding overtime and payments in lieu of
 11 sick and annual leave, paid to all newly confirmed, active
 12 firefighters employed by cities of the second class on July
 13 1 of each year.

14 (7) "Part-paid firefighter" means a person employed
 15 under 7-33-4109 who receives compensation in excess of \$300
 16 a year for his service as a firefighter.

17 (8) "Plan" means the Montana firefighters' unified
 18 retirement system created by [sections 1 through 44].

19 (9) "Prior plan" means the fire department relief
 20 association plan of an incorporated city employing full- or
 21 part-paid firefighters that elects to join the plan under
 22 [section 7] or the fire department relief association plan
 23 of a city of the first or second class.

24 NEW SECTION Section 5. Transfer of assets and
 25 liabilities from prior plans. (1) On June 30, 1982, the

1 boards of trustees of the fire department relief
 2 associations of cities of the first and second class shall
 3 transfer all funds and obligations constituting the assets
 4 and liabilities of prior plans for deposit in the fund
 5 provided for in [section 23].

6 (2) The funds transferred under subsection (1) shall
 7 be commingled for the purpose of investment and payment of
 8 member benefits and administrative expenses.

9 NEW SECTION Section 6. Effect on members of prior
 10 plans. The benefits of a member under a prior plan may not
 11 be decreased by:

12 (1) the provisions of [sections 1 through 44]; or
 13 (2) the reduction of a city of the first or second
 14 class to a city of the third class or a town under 7-1-4118.

15 NEW SECTION Section 7. Election to join plan --
 16 transfer of assets. (1) Cities of the first or second class
 17 must participate in the plan. An incorporated city employing
 18 full- or part-paid firefighters other than a city of the
 19 first or second class may as of July 1, 1982, elect to join
 20 the plan by passing an ordinance stating the election and
 21 the consent of the city to be bound by the provisions of
 22 [sections 1 through 44]. The fire department relief
 23 association of the city shall pass a resolution to the same
 24 effect. Upon the enactment of an ordinance and the passage
 25 of a resolution, the provisions of [sections 1 through 44]

1 become applicable to the city and to its full- and part-paid
 2 firefighters. Any incorporated city that enacts such an
 3 ordinance and in which the fire department relief
 4 association passes such a resolution shall send certified
 5 copies of the ordinance and resolution to the board and
 6 shall, as soon as possible thereafter, deposit with the
 7 board all cash and securities held by its fire department
 8 relief association for its full- and part-paid firefighters.
 9 The value of the securities shall be determined by the
 10 board.

11 (2) The board of trustees of the fire department
 12 relief association as of the effective date of the election
 13 shall certify the proportion, if any, of the funds of the
 14 association that represents the accumulated contributions of
 15 the active members and the relative shares of the members as
 16 of that date. Following the transfer of the cash and
 17 securities required by subsection (1) and the certification
 18 required by this subsection, the fire department relief
 19 association may conclude its affairs. The shares of the
 20 members shall be charged to the employer and credited to the
 21 respective individual accounts of the members in the plan
 22 and administered as if the contributions had been made
 23 during membership in the plan.

24 NEW SECTION. Section 8. Penalty for fraud. (1) No
 25 person may knowingly make any false statement or permit to

1 be falsified any records of the plan in an attempt to
 2 defraud the plan.

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

8 NEW SECTION. Section 9. Delegates to annual meeting
 9 -- election of board -- vacancies. (1) Before June 1, 1981,
 10 and before June 1 of each year thereafter, members of the
 11 plan shall elect by majority vote five delegates from their
 12 fire departments to attend an annual meeting for members of
 13 the retirement system. This meeting must be held after June
 14 1 but on or before July 31, 1981, and after June 1 but on or
 15 before July 31 of each year thereafter.

16 (2) (a) Delegates to the annual meeting shall elect by
 17 majority vote a board consisting of five voting members. No
 18 more than one of these members may be employed by the same
 19 fire department. The elected members shall serve staggered
 20 3-year terms except as provided in subsection (2)(b).

21 (b) To implement the staggered-term system at the
 22 first annual meeting, one member shall be elected to serve a
 23 1-year term and two members each shall be elected to serve
 24 2-year and 3-year terms. Upon completion of each 1-year and
 25 2-year term, members shall be elected for 3-year terms.

1 (c) The state auditor or his designee shall serve as a
 2 nonvoting ex officio member of the board.

3 (3) If a vacancy occurs on the board, the voting board
 4 members shall appoint a member of the plan to fill the
 5 vacancy. This appointment may only be made for the unexpired
 6 portion of the term.

7 ~~NEW SECTION~~ Section 10. Per diem and expenses of
 8 board members. The members of the board shall serve without
 9 direct or indirect compensation except that each member
 10 shall receive \$25 per day and travel expenses, as provided
 11 for in 2-18-501 through 2-18-503, for each day in attendance
 12 at the meetings of the board or in the execution of his
 13 duties as a member of the board. All per diem and expenses
 14 paid under the provisions of this section shall be paid from
 15 the fund of the retirement system.

16 ~~NEW SECTION~~ Section 11. Power and duties of board.

17 The board may:

18 (1) administer, interpret, and enforce the provisions
 19 of [sections 1 through 44];

20 (2) establish uniform rules to administer the
 21 provisions of [sections 1 through 44];

22 (3) determine the conditions under which a person may
 23 become a member of and receive benefits under the retirement
 24 system;

25 (4) determine and modify retirement, disability, and

1 survivorship allowances under [sections 1 through 44];
 2 (5) maintain records and accounts for administering
 3 the retirement system;
 4 (6) audit the retirement accounts annually and issue a
 5 report on the condition of them at the annual meeting; and
 6 (7) employ an administrator and other employees to
 7 transact the business of the retirement system.

8 ~~NEW SECTION~~ Section 12. Administrator's bond. No
 9 administrator may execute any provisions contained in
 10 [sections 1 through 44] until he has given the board a bond
 11 of not less than \$100,000 for the faithful performance of
 12 his duties as determined by the board. This bond shall be
 13 paid by the board from the fund.

14 ~~NEW SECTION~~ Section 13. Actuarial valuation. (1) The
 15 board shall contract with a qualified actuary to conduct an
 16 actuarial valuation of the plan in each even-numbered year
 17 beginning in 1982. The valuation must include the actuary's
 18 determination of the financial condition of the plan and the
 19 level of annual contributions required to maintain the plan
 20 on an actuarially sound basis. A qualified actuary is one
 21 who is a member of the American academy of actuaries or of
 22 any organization considered by the board to have similar
 23 standards.

24 (2) In each fiscal year in which an actuarial
 25 valuation is prepared, the board shall submit to the state

1 auditor a request for payment of the expenses incurred in
 2 securing the actuarial valuation. These expenses may not
 3 exceed \$6,000 in any fiscal year. The state auditor shall
 4 pay the actuary designated by the request for his services
 5 in performing the valuation.

6 NEW SECTION. Section 14. Board to provide forms --
 7 information from employers. The board shall prepare such
 8 forms as it finds necessary for the employers to complete,
 9 and the cities shall give the board all information
 10 necessary to administer [sections 1 through 44].

11 NEW SECTION. Section 15. Administrative expenses. All
 12 expenses for administering [sections 1 through 44],
 13 including compensation for an administrator and other
 14 employees and for the board members, must be paid from the
 15 retirement fund provided for in [section 23].

16 NEW SECTION. Section 16. Active membership. (1) A
 17 full-paid firefighter shall become an active member under
 18 the plan on:

19 (a) the first day of his employment by an employer;
 20 (b) July 1, 1982, if he is employed by an employer on
 21 that date; or

22 (c) the effective date of an employer's election to
 23 join the plan under [section 7] if the firefighter is
 24 employed by the employer on that date.

25 (2) Upon becoming eligible for membership under

1 subsection (1), a firefighter shall complete the forms
 2 required by the board for membership in the plan.
 3 (3) A part-paid firefighter may elect to become a
 4 member of the plan by filing a membership application with
 5 the board.

6 NEW SECTION. Section 17. Ineligibility for other
 7 retirement plans. No active member is eligible to be covered
 8 under any other mandatory retirement plan for firefighters
 9 to which an employer is required to contribute on his behalf
 10 while he is eligible to be covered by this plan.

11 NEW SECTION. Section 18. Inactive membership. (1) An
 12 active member becomes an inactive member upon the occurrence
 13 of the earlier of the following:

14 (a) the date he ceases to be employed by an employer
 15 and becomes entitled to a retirement allowance; or
 16 (b) the 31st day of an approved absence from active
 17 duty with an employer.

18 (2) An inactive member becomes an active member on the
 19 date he returns to active duty with an employer. Upon again
 20 becoming an active member, his retirement allowance, if any,
 21 shall cease being paid to him until he again becomes an
 22 inactive member.

23 NEW SECTION. Section 19. Termination of employment
 24 prior to retirement. Upon termination of the employment of
 25 an active member prior to his retirement date, he may

HB 674

1 withdraw the amount of his member contributions in lieu of
 2 all other benefits under the plan. The amount paid shall
 3 include interest, at a rate to be determined by the board,
 4 on such amounts. If an active member's employment terminates
 5 by reason of his death, his beneficiaries are entitled to
 6 the benefits prescribed in [section 40].

7 NEW SECTION. Section 20. Cessation of membership. A
 8 member shall cease to be a member upon the occurrence of the
 9 earlier of the following:

10 (1) the date he withdraws his member contributions in
 11 lieu of all other benefits under the plan; or
 12 (2) the date of his death.

13 NEW SECTION. Section 21. Credited services to be
 14 cumulative. A member who complies with the provisions of
 15 [sections 1 through 44] is entitled to benefits upon the
 16 entire period of his services as a firefighter regardless of
 17 the number of employers by whom he was employed or the
 18 number of periods of his employment.

19 NEW SECTION. Section 22. Firefighter's rights in
 20 event of city-county consolidation. A firefighter employed
 21 by a fire department established as required by law in a
 22 city or town of the county prior to the election and
 23 qualification of a commission under Title 7, chapter 3, part
 24 11 or parts 12 and 13, of that chapter or other acts of
 25 consolidation or disincorporation has the same vested rights

1 to retirement benefits as though no election and
 2 qualification had taken place.

3 NEW SECTION. Section 23. Establishment and use of
 4 retirement fund. (1) On July 1, 1982, the board shall
 5 establish a retirement fund to be maintained on behalf of
 6 the system. The administrator, who shall deposit all money
 7 received by him in the fund, is the custodian of the fund
 8 subject to the administrative control of the board.

9 (2) The fund may not be used for any purpose other
 10 than investment, as provided in [section 24], and the
 11 payment of the following:

12 (a) a service pension to a member who has become
 13 entitled to such pension;

14 (b) a pension to a member who has become permanently
 15 maimed or disabled, who has suffered a permanent disabling
 16 injury, or who has contracted a permanent disabling
 17 sickness;

18 (c) a benefit, not exceeding \$750, to defray the
 19 funeral expenses of a member;

20 (d) benefits to the surviving spouse, child, or
 21 children of a deceased member;

22 (e) premiums on a blanket policy of insurance covering
 23 the members of the fire department and providing for payment
 24 of compensation in case of the death of or injury to any
 25 such member;

1 (f) the return of employee contributions with
 2 interest;

3 (g) administrative expenses as provided in [section
 4 15];

5 (h) compensation for medical services and advice used
 6 to determine whether a member is entitled to a disability
 7 pension.

8 NEW SECTION. Section 24. Management and investment of
 9 fund. The board through the administrator shall administer,
 10 invest, account for, and treat the fund according to rules
 11 adopted by the board. The contributions of the state,
 12 employers, and members paid to the administrator under
 13 [sections 1 through 44] may be commingled for investment
 14 purposes. The securities enumerated in 17-6-211(3) are
 15 permissible investments for the fund. The board shall
 16 endeavor to direct the plan's investment business to those
 17 investment firms or banks that maintain offices in the
 18 state. Consideration must also be given to investments that
 19 will benefit the smaller communities in the state.
 20 Investment business may be directed to out-of-state firms
 21 only when there is a distinct economic advantage to the
 22 plan.

23 NEW SECTION. Section 25. Member contributions. The
 24 treasurer or other appropriate official of each employer
 25 shall retain 7% from the monthly salary of each active

1 member. The monthly deduction shall be paid to the
 2 administrator for deposit in the fund.

3 NEW SECTION. Section 26. Vesting and withdrawal of
 4 contributions. A member is at all times fully vested in the
 5 deductions made from his compensation as a member or as a
 6 member of a prior plan standing to his credit and may, at
 7 his discretion, withdraw the full amount of these deductions
 8 plus credited interest upon his termination of employment
 9 according to [section 19] and thereby forfeit all rights and
 10 interest with respect to any benefits that would otherwise
 11 become payable under the plan.

12 NEW SECTION. Section 27. Redeposit of amounts
 13 withdrawn upon reinstatement. (1) Upon reinstatement to
 14 active membership, a member may redeposit in the fund, in
 15 one lump sum or in installments not to exceed 12 monthly or
 16 24 semimonthly installments, an amount equal to the member
 17 contributions that he withdrew plus an amount equal to the
 18 interest that would have been credited to his account had he
 19 not withdrawn his member contributions. If a member makes
 20 this redeposit, his credited service must be reinstated.

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

25 NEW SECTION. Section 28. State contribution. The

1 state shall make its contribution through the state auditor
 2 from the premium taxes on insurance risks enumerated in
 3 19-11-512 after deductions are made for canceled and
 4 returned premiums. After the end of each fiscal year, the
 5 state auditor shall issue and deliver the payment to the
 6 administrator for deposit in the fund. The state's
 7 contribution is 14% of the total compensation, excluding
 8 overtime and payments in lieu of sick and annual leave, paid
 9 to all active members during the preceding calendar year.
 10 Each year the administrator shall notify the auditor of the
 11 annual compensation paid to members.

12 NEW SECTION Section 29. Employer contribution. Each
 13 employer shall make its contribution on behalf of members
 14 through the city treasurer or other appropriate official out
 15 of money available to the city for this purpose. Effective
 16 July 1, 1982, the employer's contribution is 7% of the
 17 monthly salary paid to each active member during the
 18 preceding month. This contribution shall increase annually
 19 at the rate of 1.5% for the 4 years following July 1, 1982.
 20 Effective July 1, 1987, the employer's contribution rate
 21 shall be 14%. All contributions are payable monthly to the
 22 administrator who shall, as soon as practicable after their
 23 receipt, deposit them in the fund.

24 NEW SECTION Section 30. Supplemental payments for
 25 certain employers. In addition to the contribution required

1 in [section 29], certain cities shall make supplemental
 2 payments. The administrator shall calculate as of July 1,
 3 1982, or whenever a city elects to join the plan under
 4 [section 7] the difference between the balance in the
 5 disability and pension fund for each fire department relief
 6 association under a prior plan and 2% of the taxable
 7 valuation of all taxable property within the limits of the
 8 city where the association is located. If the balance in the
 9 fund is less than 2% of the city's taxable valuation, the
 10 city shall pay the difference in a lump-sum payment or
 11 according to a payment plan agreed to by the administrator
 12 and the city.

13 NEW SECTION Section 31. Taxing authority of
 14 employers. (1) For the purpose of making contributions
 15 required of a city under [sections 1 through 44], whenever
 16 the demand for deposits of these contributions cannot be met
 17 within the general taxing authority and other revenues
 18 available to the city for that purpose, the appropriate
 19 authority of the city may levy any additional tax until the
 20 general taxing authority and other revenue available for
 21 that purpose are sufficient to meet the demand.

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

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

4 NEW SECTION. Section 32. Other money credited as
 5 employer contributions. All gifts, bequests, and emoluments
 6 given to an employer or member for the benefit of the plan
 7 or because of any member's service as a firefighter, except
 8 when specifically allowed to be retained by the member by
 9 his employer, shall be paid to the administrator who shall
 10 deposit this money in the fund as soon as practicable after
 11 its receipt.

12 NEW SECTION. Section 33. Application for service
 13 retirement. On or after a member's minimum retirement date
 14 and prior to his mandatory retirement date, he may retire on
 15 a service retirement allowance by applying in writing to the
 16 administrator. The application must state the member's
 17 elected retirement date. The member shall forward the
 18 application to the administrator not less than 30 days or
 19 more than 90 days before his elected retirement date.

20 NEW SECTION. Section 34. Service pension. (1) The
 21 administrator shall pay out of the fund a service pension to
 22 a member who elects to retire from active service after
 23 completing 20 years or more of active duty and reaching age
 24 50. The pension must equal one-half the regular monthly
 25 salary last received by the member for his service as an

1 active firefighter.

2 (2) A member who completes 20 years of service and
 3 elects to serve additional years shall receive the pension
 4 provided for in subsection (1) increased at the rate of 1%
 5 per year for each additional year of service completed, up
 6 to a maximum of 60% of the monthly salary last received by
 7 the member for his service as a firefighter. No member is
 8 eligible to receive a service pension prior to reaching age
 9 50.

10 (3) (a) The monthly pension paid to a member must be
 11 at least one-half the regular monthly compensation,
 12 excluding overtime and payments in lieu of sick leave and
 13 annual leave, paid to a newly confirmed, active firefighter
 14 of that city, as provided each year in the budget of that
 15 city.

16 (b) On or before April 1 of each year, the
 17 administrator shall report to the state auditor the
 18 difference between the amount originally received by members
 19 retired after July 1, 1973, or their surviving spouses and
 20 children from the fund under subsections (1) and (2) of this
 21 section and one-half the regular monthly compensation paid
 22 by the respective city or town to a newly confirmed, active
 23 firefighter for the preceding year. This difference must be
 24 paid by the state auditor after the end of the fiscal year
 25 from the premium taxes on insurance risks enumerated in

1 19-11-512. The auditor shall deliver the payment to the
2 administrator for deposit in the fund.

3 (4) A member is not eligible to receive a service
4 pension under this section unless he is making a monthly
5 contribution to the disability and pension fund, as required
6 by [section 25], and is on active duty as a full- or
7 part-paid member of a fire department when he reaches age
8 50.

9 NEW SECTION. Section 35. Partial service pension. (1)
10 A member is eligible to receive a partial service pension if
11 he:

12 (a) has completed at least 10 years of active duty as
13 a full- or part-paid firefighter but has not both completed
14 20 years of service and reached age 50 as an active
15 firefighter;

16 (b) is permanently separated from service;

17 (c) does not qualify for a disability pension under
18 [section 37]; and

19 (d) does not receive a refund of his contributions
20 under [section 26].

21 (2) The right to receive the pension vests upon the
22 firefighter's permanent separation from service, but the
23 payments may not begin until the date he would have both
24 reached his 50th birthday and completed 20 years of service
25 as a firefighter had his active duty not been terminated.

1 (3) A member who is eligible under subsections (1) and
2 (2) is entitled to receive a partial pension consisting of
3 monthly payments equal to 2% of the monthly salary last
4 received by a member for each year of service as a
5 firefighter up to a maximum of 60% of his final monthly
6 salary.

7 (4) If the member dies after he is permanently
8 separated from service and before he both reaches age 50 and
9 completes 20 years of service as an active firefighter, the
10 payments prescribed in subsection (3) must be made to the
11 surviving spouse beginning on the date the firefighter would
12 have both reached his 50th birthday and completed 20 years
13 of service as an active firefighter and terminating upon the
14 surviving spouse's death or remarriage. If there is no
15 surviving spouse or if the surviving spouse dies or
16 remarries and if the firefighter leaves one or more children
17 under age 18, the children are entitled to receive the
18 payments until the youngest reaches age 18 unless a child is
19 attending an accredited, postsecondary educational
20 institution as a full-time student in anticipation of
21 receiving a certificate or degree. Such student is entitled
22 to continue to receive payments until he reaches age 24.

23 (5) If the firefighter dies after he both reaches age
24 50 and completes 20 years of service as an active
25 firefighter, the payments must be made to the surviving

1 spouse or children as provided in subsection (4).

2 NEW SECTION. Section 36. Board's determination of
 3 disability. The board shall determine whether a member has
 4 become disabled so as to permanently impair his ability to
 5 discharge his normal duties as a firefighter. In making
 6 this determination, the board, any board member, or any
 7 authorized representative of the board may order medical
 8 examinations, conduct hearings, administer oaths and
 9 affirmations, take depositions, certify to official acts,
 10 and issue subpoenas to compel the attendance of witnesses
 11 and the production of books, papers, correspondence,
 12 memoranda, and documents considered necessary as evidence in
 13 connection with the claim for disability retirement. The
 14 board shall secure medical service and advice necessary to
 15 carry out the purpose of this section and shall pay for
 16 these services and advice from the fund.

17 NEW SECTION. Section 37. Disability pension. (1) The
 18 administrator shall pay a disability pension, out of the
 19 fund, to a member who has become disabled as determined by
 20 the board. The pension must equal one-half the regular
 21 salary last received by the member for his service as an
 22 active firefighter.

23 (2) A member who completes 20 years of service and
 24 elects to serve additional years is entitled to receive the
 25 pension provided for in subsection (1) increased at the rate

1 of 1% per year for each additional year of service
 2 completed, up to a maximum of 60% of the monthly salary last
 3 received by the member for his service as a firefighter.

4 (3) (a) The monthly pension paid to a member must be
 5 at least one-half the regular monthly compensation paid to a
 6 newly confirmed, active firefighter of that city, as
 7 provided each year in the budget of that city.

8 (b) On or before April 1 of each year, the
 9 administrator shall report to the state auditor the
 10 difference between the amount originally received by members
 11 retired after July 1, 1973, or their surviving spouses and
 12 children from the fund under subsections (1) and (2) of this
 13 section and one-half the regular monthly compensation paid
 14 by the respective city or town to a newly confirmed, active
 15 firefighter for the preceding year. This difference must be
 16 paid by the state auditor after the end of the fiscal year
 17 from the premium taxes on insurance risks enumerated in
 18 19-11-512. The auditor shall deliver the payment to the
 19 administrator for deposit in the fund.

20 NEW SECTION. Section 38. Cancellation of pension. If
 21 an inactive member is determined by the board to be no
 22 longer permanently disabled, his disability pension shall be
 23 canceled as of the date of this determination, and the board
 24 shall notify him of the determination. The board may review
 25 the status of any inactive member at any time.

1 NEW SECTION. Section 39. Reinstatement upon
2 cancellation of pension. (1) Any inactive member whose
3 disability pension is canceled as provided in [section 38]
4 shall be reinstated to the position held by him immediately
5 before his retirement. The board shall advise the employer
6 that the disability pension has been canceled and that the
7 inactive member is eligible for reinstatement to duty. The
8 fact that he was retired for disability may not prejudice
9 any right to reinstatement to duty that the inactive member
10 may have or claim to have.

11 (2) If the inactive member again becomes an active
12 member by returning to active work for an employer within 30
13 days following his receipt of notice under [section 38], he
14 shall be considered to have been continuously employed
15 during the term of his disability. If the inactive member
16 fails to become an active member by returning to active work
17 for an employer within 30 days following receipt of such
18 notice, his termination of employment shall be considered to
19 have occurred as of his disability retirement date and the
20 service pension, if any, to which he becomes entitled shall
21 be determined accordingly.

22 NEW SECTION. Section 40. Pensions to surviving
23 spouses or children. (1) The administrator shall pay, out of
24 the fund, a monthly pension to the surviving spouse or
25 children of a deceased member who on the date of his death

1 was an active member who had elected to retire from active
2 service in the fire department and receive a service pension
3 as provided for by [section 34] or who, prior to death, had
4 suffered a sickness or injury and was receiving or was
5 qualified to receive a disability pension as provided by
6 [section 37]. The pension shall equal one-half the regular
7 monthly salary last received by the deceased for his
8 services as an active firefighter.

9 (2) If the deceased member had completed 20 years of
10 service and had elected to serve additional years, the
11 pension provided for in subsection (1) must be increased at
12 the rate of 1% per year for each additional year of service
13 completed, up to a maximum of 60% of the monthly salary last
14 received by the deceased member for his service as an active
15 firefighter.

16 (3) (a) The monthly pension paid to the surviving
17 spouse or children of an active member who dies or elects to
18 retire must be at least one-half the regular monthly
19 compensation, excluding overtime and payments in lieu of
20 sick leave and annual leave, paid to a newly confirmed,
21 active firefighter of that city, as provided each year in
22 the budget of that city.

23 (b) On or before April 1 of each year, the
24 administrator shall report to the state auditor the
25 difference between the amount originally received by members

1 retired after July 1, 1973, or their surviving spouses and
 2 children from the fund under subsections (1) and (2) of this
 3 section and one-half the regular monthly compensation paid
 4 by the respective city or town to a newly confirmed, active
 5 firefighter for the preceding year. This difference must be
 6 paid by the state auditor after the end of the fiscal year
 7 from the premium taxes on insurance risks enumerated in
 8 19-11-512. The auditor shall deliver the payment to the
 9 administrator for deposit in the fund.

10 (4) If a surviving spouse remarries, the survivorship
 11 pension terminates and cannot be reinstated. The pension
 12 provided for in this section may not be paid to a child of a
 13 deceased firefighter after he reaches age 18 unless he is
 14 attending an accredited, postsecondary educational
 15 institution as a full-time student in anticipation of
 16 receiving a certificate or degree. Such student is entitled
 17 to continue to receive payments until he reaches age 24.

18 NEW SECTION Section 41. Payment of death benefits in
 19 absence of spouse or child. If a member dies without leaving
 20 a surviving spouse or child, the administrator shall compute
 21 the total contributions made to the fund by the deceased
 22 member, and if the deceased member had designated a
 23 beneficiary in writing to the administrator, the
 24 administrator shall issue a warrant for the amount of the
 25 total contributions payable to that beneficiary. If the

1 deceased member had not nominated a beneficiary, the
 2 contributions shall be paid to his estate.

3 NEW SECTION Section 42. Supplement to certain
 4 retirement allowances. The administrator shall pay to a
 5 member retired before July 1, 1973, a monthly retirement
 6 pension of not less than one-half the regular monthly
 7 compensation, excluding overtime and payments in lieu of
 8 sick leave and annual leave, paid to a newly confirmed,
 9 active firefighter of the city that last employed him as a
 10 firefighter, as provided each year in the budget of that
 11 city. Distribution of the funds provided for this purpose
 12 under 19-11-606(1) shall be made as follows:

13 (1) At the beginning of each fiscal year the
 14 administrator shall request and the state auditor shall
 15 issue from the earmarked revenue fund and deliver to the
 16 administrator for deposit in the fund an amount equal to the
 17 total annual dollar difference between what the retiree or
 18 his surviving spouse and children originally received from
 19 the fund and one-half the regular monthly compensation paid
 20 by the respective city or town to a newly confirmed, active
 21 firefighter for the fiscal year just preceding.

22 (2) The administrator shall use the funds to increase
 23 the monthly retirement allowances of the retirees or their
 24 surviving spouses and children to an amount equal to
 25 one-half the salary that was paid to a newly confirmed,

HB 674

1 active firefighter in the respective city or town for the
 2 preceding year.

3 NEW SECTION. Section 43. Protection of benefits from
 4 legal process -- nonassignability. Any payments made or to
 5 be made under [sections 1 through 44] are not subject to
 6 judgments, garnishment, execution, or other legal process.
 7 Except as provided in [section 44], a person entitled to a
 8 pension may not assign the right and the board may not
 9 recognize any assignment or pay over any sum so assigned.

10 NEW SECTION. Section 44. Withholding of group
 11 insurance premium from retirement benefit. A retiree who is
 12 a participant in an employee group insurance plan that
 13 permits participation in the group plan following retirement
 14 may elect to have the monthly premium for such group
 15 insurance withheld by the administrator and paid directly by
 16 the administrator to the insurance carrier. To qualify for
 17 this withholding, a retiree must be a participant in a group
 18 insurance plan available to the employees of his former
 19 employer. No withholding may be made for any retiree covered
 20 by an individual insurance policy.

21 Section 45. Section 19-9-1007, MCA, is amended to
 22 read:

23 "19-9-1007. Supplement to certain pensions. (1) The
 24 payment for each fiscal year to the police officers,
 25 spouses, or minor children described in subsections (2)(a)

1 through (2)(c) may be not less than one-half of the base
 2 salary paid in the previous calendar year in the appropriate
 3 city or town to newly confirmed police officers, except that
 4 for the fiscal year beginning July 1, 1979, all retirees and
 5 their beneficiaries who received a supplement to their
 6 retirement allowance on July 1, 1978, and are receiving an
 7 allowance on July 1, 1979, shall receive a 3½ increase in
 8 their retirement allowance in lieu of any other increase.

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

12 (a) the names of all police officers who are receiving
 13 payments from the plan as of the date of the report and were
 14 receiving payments from a prior plan before July 1, 1975;

15 (b) the names of all spouses or minor children who are
 16 receiving payments from the plan because of the death of a
 17 police officer who was receiving payments from a prior plan
 18 before July 1, 1975;

19 (c) the names of all spouses or minor children who are
 20 receiving payments from the plan and who were receiving
 21 payments from a prior plan before July 1, 1975, or in the
 22 case of minor children, whose parent, the spouse of a police
 23 officer, was receiving payments from a prior plan before
 24 July 1, 1975;

25 (d) for the purpose of determining the base figure for

1 the computations set forth in subsection (3), the following
 2 information relating to the base fiscal year commencing July
 3 1, 1976:

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

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

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

16 (e) the base salary for the previous calendar year of
 17 a newly confirmed police officer of each city or town
 18 participating in the plan.

19 (3) The state auditor shall, upon receipt of the
 20 report referred to in subsection (2), compute the difference
 21 between each amount reported under subsections (2)(d)(i)
 22 through (2)(d)(iii) and one-half the base salary for the
 23 previous calendar year of a newly confirmed police officer
 24 of the appropriate city or town. The difference shall be
 25 paid by the state auditor out of the premium tax collected

1 on insurance sold in this state to insure against the risks
 2 enumerated in 19-11-512~~(5)~~ to the administrator no later
 3 than May 31 of each year. This payment is in addition to the
 4 payment to be made by the state auditor under 19-9-702. The
 5 administrator shall use the funds received under this
 6 subsection to supplement the monthly payments to persons
 7 described in subsections (2)(a) through (2)(c) so that the
 8 requirements of subsection (1) are met.

9 (4) In addition to the payments made by the auditor as
 10 provided in subsection (3), the auditor shall make annual
 11 payments of \$100,000 on or before June 30 of each year until
 12 the sum of \$500,000 has been paid to the administrator for
 13 deposit in the retirement account. These payments are to be
 14 made to reimburse the retirement account for funds advanced
 15 to implement this section.

16 (5) If more than one minor child is entitled to
 17 supplementary payments under this section by virtue of the
 18 death of a common parent police officer, the minimum payment
 19 to such minor children under this section shall be
 20 determined as if there were one such minor child and the
 21 supplementary payment shall be made to the minor children
 22 collectively."

23 Section 46. Section 19-11-401, MCA, is amended to
 24 read:

25 "19-11-401. Management of association. The management

1 of the fire department relief associations in-municipalities
 2 other-than-first--and-second-class-cities is vested in the
 3 boards of trustees, except as provided in 19-11-402 and
 4 19-11-403."

5 Section 47. Section 19-11-403, MCA, is amended to
 6 read:

7 "19-11-403. Investment of fund by board of
 8 investments. ~~111~~ When ~~Whenever~~ the average yield on
 9 investments of public retirement funds under the board of
 10 investments exceeds by 1% in any fiscal year the average
 11 yield on investments of the fund made pursuant to 19-11-402,
 12 the surplus money in the fund shall be remitted to the state
 13 treasurer for investment by under the direction of the board
 14 of investments as is provided in 19-11-302-for-associations
 15 in-first--and-second-class-cities ~~17-6-204~~. The department
 16 of community affairs shall advise the association of the
 17 current yield on investments of public retirement funds.

18 ~~(2) As used in subsection (1), "surplus money" means
 19 the excess over the greater of the following:~~

20 ~~(a) 1 1/2 times the monthly benefit paid in the
 21 preceding month; or~~

22 ~~(b) \$5,000."~~

23 Section 48. Section 19-11-504, MCA, is amended to
 24 read:

25 "19-11-504. Amount of special tax levy. ~~(1)~~-Whenever

1 the-total-amount-of-the-fund-is-less-than-2% of-the--taxable
 2 valuation--of--all--taxable--property--within--the--limits--of--the
 3 city--or--town--the--special--tax--levy--shall--be--
 4 ~~(a)~~--not--less--than--1--mill--or--more--than--4--mills--on--each
 5 dollar--of--taxable--valuation--of--all--taxable--property--within
 6 the--limits--of--the--city--or--town--and
 7 ~~(b)~~--an--amount--sufficient--to--provide--a--growth--per--year
 8 in--the--fund--considering--all--sources--of--income--to--the--fund
 9 and--the--payment--of--obligations--out--of--the--fund--equal--to--the
 10 sum--produced--by--1--mill--levied--on--the--taxable--valuation--of
 11 all--the--taxable--property--in--the--city--or--town--
 12 ~~(2)~~--The--special--tax--levy--shall--be--a--fractional--part--of--
 13 1--mill--whenever--
 14 ~~(a)~~--the--total--amount--of--the--fund--is--less--than--2%--but
 15 more--than--2%--of--the--taxable--valuation--of--all--taxable
 16 property--within--the--city--or--town--and
 17 ~~(b)~~--the--special--tax--levy--of--a--fractional--part--of--1
 18 mill--will--produce--sufficient--revenue--to--cause--the--fund
 19 considering--all--sources--of--income--to--the--fund--and--all
 20 payments--to--be--made--out--of--the--fund--to--exceed--2%--of--the
 21 taxable--valuation--of--all--taxable--property--within--the--city--or
 22 town--
 23 ~~(3)~~--in--cities--of--the--third--class--when ~~Whenever~~ the
 24 fund contains an amount which is less than 2% of the taxable
 25 valuation of all taxable property in the city or town, the

1 city council shall levy an annual special tax of not less
 2 than 1 mill and not more than 4 mills on each dollar of
 3 taxable valuation of all taxable property within the city or
 4 town."

5 Section 49. Section 19-11-512, MCA, is amended to
 6 read:

7 "19-11-512. State auditor to pay association out of
 8 insurance premium taxes. (1) At the end of the fiscal year
 9 the state auditor shall issue and deliver the payment
 10 described in this subsection to the board of investments to
 11 be credited to the account of each fire department relief
 12 association of any city or town of the first or second class
 13 which has a fire department relief association entitled by
 14 law to receive payments. The state auditor shall at the
 15 same time report to the treasurer of the association the
 16 amount of the payment. The payment shall be for the use and
 17 benefit of the association. It shall be paid out of the
 18 premium taxes on insurance risks enumerated in subsection
 19 (6) collected by the state auditor and shall be equal to 10%
 20 of the total annual compensation paid by the city or town to
 21 its paid or part paid firefighters for services in the
 22 previous calendar year. The city clerk of the city or town
 23 shall certify in writing to the state auditor on or before
 24 April 1 of each year the amount paid by the city or town as
 25 compensation for services to paid or part paid firefighters.

1 (2) When there is a disaster resulting in death or
 2 injury sufficient to draw the pensions of 10% of the active
 3 force and the fund, after receiving all moneys provided for
 4 in 19-11-501, 19-11-503, 19-11-504 and subsection (1) of
 5 this section, does not show at least the 1 mill growth
 6 referred to in 19-11-504, the treasurer of the association
 7 shall request and the state auditor shall issue and deliver
 8 an additional payment under the same conditions described in
 9 subsection (1). The payment shall be in an amount sufficient
 10 to cause at least the above mentioned 1 mill growth in the
 11 funds.

12 (3) If a city is not entitled to receive a sum equal
 13 to 1 1/2 mills of its total taxable value under subsections
 14 (1) and (2) the payment shall be made in the amount
 15 provided in subsections (4) and (5) for cities of the third
 16 class and in the manner described in subsection (1).

17 (4) At the end of the fiscal year, the state
 18 auditor shall issue and deliver the warrant described in
 19 this subsection to the treasurer of every city or town
 20 except cities and towns of the first or second class, which
 21 has a fire department relief association entitled by
 22 law to receive payments. The warrant shall be for the use
 23 and benefit of the association. It shall be for an amount
 24 equal to 1 1/2 mills of the total taxable value of the city
 25 or town and shall be paid out of the premium taxes on

1 insurance risks enumerated in subsection ~~6~~ ~~13~~ collected
 2 by the state auditor.

3 ~~5~~ ~~12~~ If the payment provided for in subsection ~~4~~
 4 ~~11~~ is less than \$100, an additional payment shall be made
 5 from the same tax moneys so that the total amount received
 6 is \$100.

7 ~~6~~ ~~13~~ The risks referred to in subsections subsection
 8 (1) and ~~(4)~~ are:

9 (a) insurance of houses, buildings, and all other
 10 kinds of property against loss or damage by fire or other
 11 casualty;

12 (b) all kinds of insurance on goods, merchandise, or
 13 other property in the course of transportation, whether by
 14 land, water, or air;

15 (c) insurance against loss or damage to motor vehicles
 16 resulting from accident, collision, or marine and inland
 17 navigation and transportation perils;

18 (d) insurance of growing crops against loss or damage
 19 resulting from hail or the elements;

20 (e) insurance against loss or damage by water to any
 21 goods or premises arising from the breakage or leakage of
 22 sprinklers, pumps, or other apparatus;

23 (f) insurance against loss or legal liability for loss
 24 because of damage to property caused by the use of teams or
 25 vehicles, whether by accident or collision or by explosion

1 of any engine, tank, boiler, pipe, or tire of any vehicle;
 2 and

3 (g) insurance against theft of the whole or any part
 4 of any vehicle."

5 Section 50. Section 19-11-514, MCA, is amended to
 6 read:

7 "19-11-514. State treasurer to pay warrants. The state
 8 treasurer is hereby authorized and directed, upon the
 9 presentation to him of a warrant drawn pursuant to this
 10 chapter, to pay:

11 ~~11--in-the-case-of-a-municipality-other-than-a-city-of~~
 12 ~~the--first--or--second--class~~, to the treasurer of the city or
 13 town, out of moneys in the earmarked revenue fund dedicated
 14 for such purpose, the amount of such warrant specified,
 15 which amount shall be paid by said city treasurer to said
 16 fire department relief association

17 ~~17--in--the--case--of--a--city--of--the--first--or--second~~
 18 ~~class--to--the--board--of--investments--to--be--credited--to--the~~
 19 ~~account--of--the--fire--department--relief--association--out--of~~
 20 ~~the--money--in--the--earmarked--revenue--fund--dedicated--for--such~~
 21 ~~purpose--the--amount--of--the--warrant."~~

22 Section 51. Section 19-11-606, MCA, is amended to
 23 read:

24 "19-11-606. Supplement to certain pensions. (1) In
 25 addition to the taxes on premiums required by law to be paid

1 by each insurer doing business in this state that is
 2 authorized to effect insurance on risks enumerated in
 3 19-11-512, there is a tax of 1 1/2% on the fire portion of
 4 the direct premiums received during the calendar year of
 5 1975 and each succeeding year, with allowance for
 6 cancellations and returned premiums. The insurance
 7 commissioner shall collect the tax during March of each year
 8 and deposit the moneys in the earmarked revenue fund. The
 9 auditor shall pay claims as provided in section 421 and
 10 subsection (2) of this section. As those persons who are to
 11 receive the fund die, the tax shall be reduced
 12 proportionately, and when no eligible person, as defined by
 13 section 421 and subsection (2), survives, the tax
 14 terminates and the remaining fund, if any, shall be
 15 transferred to the general fund.

16 (2) Effective January 1, 1976, each association shall
 17 pay to the firefighters retired before July 1, 1973, or
 18 their surviving spouses and children a monthly pension of
 19 not less than one-half the regular monthly salary paid to a
 20 confirmed active firefighter of that city, as provided each
 21 year in the budget of that city. In the case of volunteer
 22 firefighters, the pension may not exceed \$75 per month.
 23 Distribution of the funds provided for this purpose under
 24 subsection (1) shall be made as follows:

25 (a) At the beginning of each fiscal year the treasurer

1 of each association shall request and the state auditor
 2 shall issue from the earmarked revenue fund and delivery-in
 3 ~~the-case-of-a-municipality-other-than-a-city-of-the-first-or~~
 4 ~~second-class~~ to the treasurer of the respective city or
 5 town ~~or-in-the-case-of-a-city-of-the-first-or-second-class~~
 6 ~~to-the-board-of-investments-to-be-credited-to-the-account-of~~
 7 ~~the--fire--department-relief-association~~ an amount certified
 8 to be equal to the total annual dollar difference between
 9 what the retirees or their surviving spouses and children
 10 received from the fund and one-half of the salary paid by
 11 the respective city or town to a confirmed active
 12 firefighter for the fiscal year just preceding. The state
 13 auditor shall, at the same time, report to the treasurer of
 14 the appropriate association the amount of any payment
 15 delivered to the board of investments.

16 (b) The treasurer of a city or town receiving funds
 17 shall immediately disburse them to the treasurer of the
 18 respective association.

19 (c) The treasurer of the association shall utilize
 20 these funds to increase the monthly pension of retirees or
 21 their surviving spouses and children to an amount equal to
 22 one-half of the salary that was paid to a confirmed active
 23 firefighter in the city or town for the preceding year."

24 Section 52. Section 19-12-301, MCA, is amended to
 25 read:

HB 674

1 *19-12-301. Fire insurance premium tax to be paid into
2 fund. The state auditor and ex officio commissioner of
3 insurance shall annually deposit in the volunteer
4 firefighters' fund a sum equivalent to 5% of the premium
5 taxes collected from insurers authorized to effect insurance
6 against risks enumerated in 19-11-512, computed after the
7 amounts provided for by 19-11-512 and 19-11-512 have
8 first been deducted. The moneys shall be used for the
9 payment of claims and administrative costs as provided in
10 this chapter.*

11 Section 53. Repealer. Sections 19-11-301 through
12 19-11-303, MCA, are repealed.

13 Section 54. Effective date. This act is effective on
14 passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 347-81

FISCAL NOTE

Form BD-15

In compliance with a written request received February 10, 19 81, there is hereby submitted a Fiscal Note for House Bill 674 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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

Description of Proposed Legislation

To create a fire fighters' unified retirement system and provide for its administration.

Assumptions

1. The salaries of active firemen will increase 7% annually during the biennium.
2. The cities' aggregate current contributions will be 10% of salaries.

<u>Fiscal Impact</u>	<u>FY 1982</u>	<u>FY 1983</u>		<u>Estimated Increase (Decrease)</u>
	<u>Current Law</u>	<u>Proposed Law</u>		
State Premium Tax Fund	(No Effect)	\$1,012,822	\$1,465,157	\$452,335
First and Second Class Cities	(No Effect)	1,012,822	708,975	(303,847)
Members	(No Effect)	607,693	708,975	<u>101,282</u>
Total Revenue Increase				\$249,770

Local Impact

No effect on local revenue. Local expenditures will be changed from a contribution based on mill levies to a percentage of active firemen's salaries, beginning at 7% and increasing to 14% by 1987. This is in addition to any amounts agreed to between the city and the administrator to fund the excess, as of July 1, 1982, of 2% of the city's taxable valuation over the value of the fund.

Long Range Effects

In addition to 14% of active firemen's salaries, the state premium tax fund is to cover the supplemental amounts paid under the escalator provision to members retiring after July 1, 1973. This amount is projected to grow to \$1,700,000 in 10 years, and \$3,100,000 in 20 years.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-12-81

STATE OF MONTANA

REQUEST NO. 347-81

REVISED

Form BD-15

In compliance with a written request received February 23, 1981, there is hereby submitted a Fiscal Note for House Bill 674 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

THIS IS A REVISED FISCAL NOTE

DESCRIPTION: To create a fire fighters' unified retirement system and provide for its administration.

ASSUMPTIONS:

- 1) In projecting cost reductions resulting from the elimination of the benefit escalator provision for new members, the latest actuarial valuation assumptions were applied.
- 2) The salaries of active firemen were assumed to increase 7% annually during the biennium.
- 3) The employment rate was assumed to follow past trends.
- 4) The revenue increase to cities was based upon an assumption of current aggregate contributions of 10% of salaries.

<u>FISCAL IMPACT:</u>	<u>1982</u>	<u>1983</u>
Increase in Revenues by Source		
State Premium Tax Fund	\$ 757,248	\$ 810,258
First and Second Class Cities	189,312	506,411
Members	<u>94,656</u>	<u>101,282</u>
Total Increase	\$1,041,216	\$1,417,951
Increase in Expenditures by Source		
Personal Services	\$ 16,245	\$ 16,245
Operating Costs*	9,525	9,025
Local Assistance, Grants,		
Benefits and Claims	<u>18,931</u>	<u>20,256</u>
Total Increase	<u>\$ 44,701</u>	<u>\$ 45,526</u>
Net Effect	\$ 996,515	\$1,372,425

* In addition, there will be an estimated amount of \$4,000 of operating expenses required prior to July 1, 1981.

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/24/81

DERIVATION OF ESTIMATES FOR FISCAL NOTE OF H.B. 674

The estimates were derived from data prepared for actuarial purposes and information provided by the Public Employees' Retirement Division.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The bill will significantly decrease the cost of projected benefits for new members hired after June 30, 1981 due to changes in the benefit provisions as follows:

- 1) The long-term effect of the elimination of the escalator provision will be a cost reduction of approximately 6% of each member's salary.
- 2) Basing the benefits upon the final three year average salary instead of the last month's salary will have a long-term cost reduction of approximately 4.29% of each member's salary.
- 3) The normal retirement date was changed from age 50 and 20 years of service to age 50 and 25 years of service. In addition, the formula was changed from 2 1/2% of salary for each of the first 20 years of service and 1% for each year thereafter to 2% of salary for each year of service. The long-term effect of these changes will be a cost reduction of approximately 3.86% of each member's salary.

STATE OF MONTANA

REQUEST NO. 347-81

Revised

FISCAL NOTE

Form BID-15

In compliance with a written request received March 30, 1981, there is hereby submitted a Fiscal Note for House Bill 674 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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

Description of Proposed Legislation

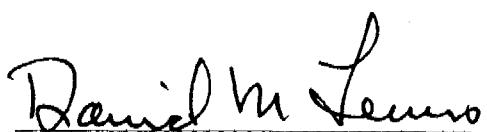
To create a firefighters' unified retirement system and provide for its administration.

Assumptions

1. In projecting cost reductions resulting from the elimination of the benefit escalator provision for new members, the latest actuarial valuation assumptions were applied.
2. The salaries of active firemen were assumed to increase 7% annually during the biennium.
3. The employment rate was assumed to follow past trends.
4. The revenue increase to cities was based upon an assumption of current aggregate contributions of 10% of salaries.

<u>Fiscal Impact</u>	<u>FY 1982</u>	<u>FY 1983</u>
Increase in Revenues by Source:		
State Premium Tax Fund		
(General Fund revenues will be decreased by this amount)	\$ 757,248	\$ 810,258
First and Second Class Cities	189,312	506,411
Members	94,656	101,282
Total Increase	\$1,041,216	\$1,417,951
Increase in Expenditures by Source:		
Personal Services	\$ 16,245	\$ 16,245
Operating Costs*	9,525	9,025
Local Assistance, Grants, Benefits & Claims	18,931	20,256
Total Increase	\$ 44,701	\$ 45,526
Net Effect	\$ 996,515	\$ 1,372,425

*In addition, there will be an estimated amount of \$4,000 of operating expenses prior to July 1, 1981.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 3-30-81

STATE OF MONTANA

FISCAL NOTE

REQUEST NO. 347-81

revised

Form BD-15

In compliance with a written request received April 10, 1981, there is hereby submitted a Fiscal Note for House Bill 674 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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

Description of Proposed Legislation

To create a firefighters' unified retirement system and provide for its administration.

Assumptions

1. In projecting cost reductions resulting from the elimination of the benefit escalator provision for new members, the latest actuarial valuation assumptions were applied.
2. The salaries of active firemen were assumed to increase 7% annually during the biennium.
3. The employment rate was assumed to follow past trends.
4. The revenue increase to cities was based upon an assumption of current aggregate contributions of 10% of salaries.

Fiscal ImpactFY 1982FY 1983

Increase in Revenues by Source:

State Premium Tax Fund (General Fund revenues will be decreased by this amount)	\$ 189,312	\$ 506,411
First and Second Class Cities	189,312	506,411
Members	<u>94,656</u>	<u>101,282</u>
 Total Increase	 \$473,280	 \$1,114,104

Increase in Expenditures by Source:

Personal Services	\$ 16,245	\$ 16,245
Operating Costs*	9,525	9,025
Local Assistance, Grants, Benefits and Claims	<u>18,931</u>	<u>20,256</u>
 Total Increase	 \$ 44,701	 \$ 45,526

Net Effect	\$428,579	\$1,068,578
------------	-----------	-------------

*In addition, there will be an estimated amount of \$4,000 of operating expenses prior to July 1, 1981.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 4-13-81

1 STATEMENT OF INTENT

2 HOUSE BILL 674

3 House Committee on State Administration

4

5 A statement of intent is required for this bill in that
6 it delegates rulemaking authority to the Public Employees'
7 Retirement Board for the proper administration of the
8 Montana Firefighters' Unified Retirement System.

9 It is contemplated that the rules will address the
10 following:

11 (1) interpretation and enforcement of the provisions
12 of this act;

13 (2) establishment of uniform rules to administer the
14 provisions of this act;

15 (3) determination of conditions under which a person
16 may become a member and receive benefits under the
17 retirement system;

18 (4) determination of retirement disability and
19 survivorship allowances under the provisions of this act;

20 (5) establishment of policy for the maintenance of
21 records and accounts for administering the retirement
22 system;

23 (6) selection procedures for contracting with a
24 qualified actuary to conduct actuarial valuation of the
25 system.

Approved by Committee
on State Administration

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

Refer to Introduced Bill

15 (Strike everything after the enacting clause and insert:—)
16 NEW SECTION. Section 1. Short title. [Sections
17 through 53] may be cited as the "Montana Firefighters
18 Unified Retirement Act".

19 NEW SECTION. Section 2. Purpose — application of
20 prior law. (1) Because cities other than those of the first
21 or second class currently have fire department relief
22 associations, the legislature finds and declares that the
23 law regarding these associations cannot be repealed. It is
24 the express intention of the legislature to allow two
25 separate and distinct retirement systems to exist. The

1 first, which includes fire department relief associations.
2 applies to cities other than those of the first or second
3 class that wish to adopt it. The second, created by
4 [sections 1 through 53], applies to cities of the first or
5 second class and those other cities that wish to adopt it.
6 The purpose of the second system is to provide equity and
7 security for retired firefighters who served cities of the
8 first and second class and other cities electing to join the
9 plan by creating a centrally administered system responsible
10 for continuing all retirement payments from the assets of
11 the system.

12 (2) Title 19, chapter 11, may not be applied in any
13 way to a city operating under the plan created by [sections
14 1 through 53] except as otherwise provided.

15 NEW SECTION. Section 3. Retirement system
16 established. A firefighters' unified retirement system is
17 established and governed by the provisions of [sections 1
18 through 53].

19 NEW SECTION. Section 4. Definitions. Unless the
20 context requires otherwise, the following definitions apply
21 in [sections 1 through 53]:

22 (1) "Administrator" means the public employees'
23 retirement division of the department of administration.

24 (2) "Board" means the retirement board described in
25 2-15-1009.

1 (3) "Credited service" means the aggregate of a
2 member's prior service and membership service.

3 (4) "Dependent child" means a child of a deceased
4 member who is:

5 (a) unmarried and under age 18; or

6 (b) unmarried, under age 24, and attending an
7 accredited postsecondary educational institution as a
8 full-time student in anticipation of receiving a certificate
9 or degree.

10 (5) "Employer" means any city that is of the first or
11 second class or that elects to join this plan under [section
12 8].

13 (6) "Final average salary" means the monthly
14 compensation of a member hired on or after July 1, 1981,
15 averaged over the last 36 months of his active service or,
16 if he has not been a member that long, over the period of
17 his membership.

18 (7) "Firefighter" means a person employed as a full-
19 or part-paid firefighter by an employer.

20 (8) "Full-paid firefighter" means a person appointed
21 as a firefighter under 7-33-4106.

22 (9) "Fund" means the agency account in the state
23 treasury system designated for the use of the plan.

24 (10) "Member" means a person who is employed by an
25 employer as a full- or part-paid firefighter or who is

1 entitled to a retirement allowance by virtue of his service
2 to an employer as a firefighter.

3 (11) "Member contributions" means the total of the
4 deductions from a member's compensation made during a period
5 of active membership under [sections 1 through 53] or made
6 under a prior plan and transferred to this plan, standing to
7 his credit, together with the interest thereon.

8 (12) "Membership service" means a period of employment
9 with an employer occurring after July 1, 1981, during which
10 the withholdings required by [sections 1 through 53] have
11 been made from a member's monthly compensation and credited
12 to his member contributions account. Pro rata credit shall
13 be granted for employment on a part-time basis or for
14 employment over a period of less than a complete fiscal
15 year.

16 (13) "Minimum retirement date" means the first day of
17 the month coinciding with or immediately following, if none
18 coincides, the date on which a member becomes both age 50 or
19 older and completes 10 or more years of credited service.

20 (14) "Monthly compensation" means:

21 (a) for a full-paid firefighter, the regular monthly
22 compensation, excluding overtime, holiday payments, shift
23 differential payments, compensatory time payments, and
24 payments in lieu of sick leave, paid by an employer for his
25 service as a firefighter;

1 (b) for a part-paid firefighter employed by a city of
 2 the second class, 15% of the average regular monthly
 3 compensation, excluding overtime, holiday payments, shift
 4 differential payments, compensatory time payments, and
 5 payments in lieu of sick leave, paid to all newly confirmed,
 6 active firefighters employed by cities of the second class
 7 on July 1 of each year.

8 (15) Any reference to "municipality", "city", or "town"
 9 includes those jurisdictions which, prior to the effective
 10 date of a county-municipal consolidation, were incorporated
 11 municipalities, subsequent districts created for urban
 12 firefighting services, or the entire county included in the
 13 county-municipal consolidation.

14 (16) "Part-paid firefighter" means a person employed
 15 under 7-33-4109 who receives compensation in excess of \$300
 16 a year for his service as a firefighter.

17 (17) "Plan" means the municipal firefighters'
 18 retirement system created by [sections 1 through 53].

19 (18) "Prior plan" means the fire department relief
 20 association plan of a city that elects to join the plan
 21 under [section 8] or the fire department relief association
 22 plan of a city of the first or second class.

23 (19) "Prior service" means a period of employment as a
 24 firefighter for which credit was granted to a member under a
 25 prior plan and has been transferred to this plan.

1 (20) "Retirement allowance" means the monthly benefit
 2 payable after service or disability retirement.

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

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

11 NEW SECTION. Section 5. Participation in plan by
 12 first- and second-class cities. Cities of the first and
 13 second class that employ full-paid firefighters must
 14 participate in the plan. If a city of the first or second
 15 class is reduced to a city of the third class or a town
 16 under 7-1-4118, it must continue to participate in the plan
 17 as long as it has retired firefighters or beneficiaries
 18 eligible to receive retirement benefits.

19 NEW SECTION. Section 6. Transfer of assets and
 20 liabilities from prior plans. All funds and obligations
 21 constituting the assets and liabilities of prior plans,
 22 regardless of their form or who holds them, must be
 23 transferred to the account provided for in [section 22]. The
 24 board shall determine the amounts to be apportioned to each
 25 account on [the effective date of this section], and the

1 department of administration and the boards of trustees of
 2 the fire department relief associations shall transfer such
 3 amounts to the appropriate accounts on July 1, 1981.

4 NEW SECTION. Section 7. Effect on members of prior
 5 plans. A firefighter hired before July 1, 1981, who was a
 6 member of a prior plan and who becomes a member of this plan
 7 retains all rights and benefits accrued under a prior plan.

8 NEW SECTION. Section 8. Election to join plan --
 9 transfer of assets. (1) Except for cities with only
 10 volunteer firefighters, a city other than one described in
 11 [section 5] may, after July 1, 1981, elect to join the plan
 12 by passing an ordinance stating the election and the consent
 13 of the city to be bound by the provisions of [sections 1
 14 through 53]. The fire department relief association of the
 15 city may pass a resolution to the same effect. Upon the
 16 enactment of the ordinance and passage of the resolution,
 17 the provisions of [sections 1 through 53] become applicable
 18 to the city. Any city that enacts such an ordinance and in
 19 which the fire department relief association passes such a
 20 resolution shall send certified copies thereof to the board
 21 and shall, as soon as possible thereafter, deposit with the
 22 board all cash and securities held by its fire department
 23 relief association. The value of the securities shall be
 24 determined by the board.

25 (2) The board of trustees of the fire department

1 relief association as of the effective date of the election
 2 shall certify the proportion, if any, of the funds of the
 3 association that represents the accumulated contributions of
 4 the active members and the relative shares of the members as
 5 of that date. Following the transfer of the cash and
 6 securities required by subsection (1) and the certification
 7 required by this subsection, the fire department relief
 8 association may conclude its affairs. The shares of the
 9 members shall be charged to the employer and credited to the
 10 respective individual accounts of the members in the plan
 11 and administered as if the contributions had been made
 12 during membership in the plan. Any excess of employer
 13 credits over charges under this section will be offset, with
 14 interest, against future required employer contributions.
 15 Any excess of employer charges over credits under this
 16 section are payable by the employer, with interest, on a
 17 basis determined by the procedure described in [section 24].

18 NEW SECTION. Section 9. Penalty for fraud. (1) No
 19 person may knowingly make any false statement or permit to
 20 be falsified any records of the plan in an attempt to
 21 defraud the plan.

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

1 months, or both.

2 NEW SECTION. Section 10. Firemen's association to
 3 advise board -- payment to the association from fund. (1)
 4 The Montana state firemen's association shall serve as an
 5 advisor to the board and may meet quarterly with the board
 6 to discuss matters relating to the administration of
 7 [sections 1 through 53]. The association may review all
 8 medical and legal information available to the board
 9 relating to service, disability, and survivorship benefits
 10 for members of the plan.

11 (2) In June of each year, the association shall
 12 receive annually from the fund an amount equal to 1/5 of 1%
 13 of the annual compensation paid to active members of the
 14 plan to defray expenses incurred by the association when
 15 representing members of the plan.

16 NEW SECTION. Section 11. Power and duties of board.
 17 The powers and duties of the board include:

18 (1) administering, interpreting, and enforcing the
 19 provisions of [sections 1 through 53];

20 (2) establishing uniform rules to administer the
 21 provisions of [sections 1 through 53];

22 (3) determining the conditions under which persons may
 23 become members of and receive benefits under the retirement
 24 system; and

25 (4) determining allowances for retirement and

1 disability under [sections 1 through 53].

2 NEW SECTION. Section 12. Department to provide forms
 3 -- information from employers. The department of
 4 administration shall prepare such forms as it finds
 5 necessary for the employers to complete to provide all the
 6 information necessary to administer [sections 1 through 53],
 7 and the cities shall give the department of administration
 8 all data necessary to carry out the purpose and intent of
 9 [sections 1 through 53].

10 NEW SECTION. Section 13. Administrative expenses. (1)
 11 The expense of administering [sections 1 through 53],
 12 exclusive of the payment of retirement allowances and other
 13 benefits, may be paid from the fund.

14 (2) Before July 15 of each year, the board may compute
 15 the administrative costs for the immediately preceding
 16 fiscal year and transfer that amount from the fund to the
 17 public employees' retirement system account in the agency
 18 fund.

19 NEW SECTION. Section 14. Active membership. (1) A
 20 full-paid firefighter becomes an active member under the
 21 plan:

22 (a) on the first day of his employment by an employer;
 23 (b) on July 1, 1981, if he is employed by an employer
 24 on that date; or

25 (c) in the case of an employer that elects to join the

1 plan as provided in [section 8], on the effective date of
 2 such election if he is employed by the employer on that
 3 date.

4 (2) Upon becoming eligible for membership, he shall
 5 complete the forms and furnish any proof required by the
 6 board.

7 (3) A part-paid firefighter may elect to become a
 8 member of the plan by filing a membership application with
 9 the board.

10 NEW SECTION. Section 15. Ineligibility for other
 11 retirement plans. No active member is eligible to be covered
 12 under any other mandatory retirement plan for firefighters
 13 to which an employer is required to contribute on his behalf
 14 while he is eligible to be covered by this plan.

15 NEW SECTION. Section 16. Inactive membership. (1) An
 16 active member becomes an inactive member upon the occurrence
 17 of the earlier of the following:

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

20 (b) the 31st day of an approved absence from active
 21 duty with an employer.

22 (2) An inactive member becomes an active member on the
 23 day he returns to active duty with an employer. Upon again
 24 becoming an active member, his retirement allowance, if any,
 25 shall cease being paid to him until he again becomes an

1 inactive member.

2 NEW SECTION. Section 17. Termination of employment
 3 prior to retirement. (1) Except as provided in subsection
 4 (2), an active member shall withdraw the amount of his
 5 member contributions, plus regular interest as determined by
 6 the board, in lieu of all other benefits under the plan upon
 7 his termination of employment prior to his retirement. If an
 8 active member's employment terminates by reason of his
 9 death, his beneficiaries are entitled to the benefits
 10 prescribed in [section 44].

11 (2) If a member has 10 years or more of creditable
 12 service before termination, he may keep his contributions on
 13 deposit and be eligible for a service retirement at age 50.

14 NEW SECTION. Section 18. Cessation of membership. A
 15 member shall cease to be a member upon the occurrence of the
 16 earlier of the following:

17 (1) the date he withdraws his member contributions in
 18 lieu of all other benefits under the plan;
 19 (2) the date of his death.

20 NEW SECTION. Section 19. Credited service to be
 21 cumulative. A member is entitled to benefits upon the entire
 22 period of his credited service without regard to the number
 23 of employers by whom he was employed or the number of
 24 periods of his employment so that no duplication of credited
 25 service occurs.

1 NEW SECTION. Section 20. Military service. (1) A
 2 firefighter inducted into the armed forces of the United
 3 States may:

4 (a) continue his payments into the account during his
 5 military service; or

6 (b) within 2 years after his return to active
 7 firefighter status, contribute to the account an amount
 8 equal to the membership contributions that he would have
 9 made had he been a firefighter during the time of his
 10 military service.

11 (2) If a member chooses one of the options in
 12 subsection (1) and meets its requirements, he shall receive
 13 credit for his service in the armed forces of the United
 14 States as if it were service as a firefighter.

15 NEW SECTION. Section 21. Election to qualify previous
 16 military service. (1) A member with 15 years or more of
 17 service may, at any time prior to his retirement, make a
 18 written election with the board to qualify all or any
 19 portion of his active service in the armed forces of the
 20 United States for the purpose of calculating retirement
 21 benefits, up to a maximum of 5 years, if he is not otherwise
 22 eligible to receive credit. To qualify this service he must
 23 contribute to the account the actuarial cost of granting the
 24 service to be determined by the board based on his 16th
 25 compensation and normal contribution rate as of his 16th

1 year and as many succeeding years as are required to qualify
 2 this service, with interest from the date he becomes
 3 eligible for this benefit to the date he contributes. He may
 4 not qualify more of his military service than he has service
 5 in excess of 15 years. Military service purchased under this
 6 section may not be used in determining eligibility for a
 7 service retirement requiring a minimum of 10 years of
 8 service.

9 (2) If a member has retired from active duty in the
 10 armed forces of the United States with normal service
 11 retirement benefits, he may not qualify his military service
 12 under subsection (1). However, a member who is serving or
 13 has served in the military reserves with the expectation of
 14 receiving a military service pension may qualify his active
 15 military service under subsection (1) if his active duty in
 16 the armed forces of the United States is not more than 25%
 17 of the total of all his years of military service, including
 18 reserve and active duty time.

19 NEW SECTION. Section 22. Retirement account.
 20 Beginning July 1, 1981, an account in the agency fund shall
 21 be maintained on behalf of the plan. The state treasurer is
 22 the custodian of the account subject to the exclusive
 23 administrative control of the board.

24 NEW SECTION. Section 23. Management of funds by
 25 department of administration. Except as otherwise provided

1 in [sections 1 through 53], the department of
 2 administration, through the administrator and the board of
 3 investments, shall administer, invest, account for, and
 4 treat the funds deposited with it under [sections 1 through
 5 53] according to the rules addressing the public employees'
 6 retirement system, insofar as these rules are not
 7 inconsistent with those promulgated and adopted by the
 8 board. The contributions of the state, employers, and
 9 members paid to the administrator under [sections 1 through
 10 53] may be commingled for investment purposes.

11 NEW SECTION. Section 24. Unfunded liabilities. (1)
 12 The legislature finds and declares that many cities
 13 operating under prior plans have excess and unfunded
 14 liabilities, and the liabilities cannot be amortized by the
 15 percentage contributions set forth in [sections 1 through
 16 53].

17 (2) The administrator shall, on or before October 1,
 18 1984, determine the excess and unfunded liability of each
 19 city participating in the plan created by [sections 1
 20 through 53]. The determination must be negotiated between
 21 each city and the administrator. Each city determined by the
 22 administrator to have an excess and unfunded liability under
 23 a prior plan that, as of July 1, 1984, is not funded by sums
 24 on deposit or funds available for deposit with the
 25 administrator shall pay an additional sum over a period of

1 time to amortize its excess liability as determined by
 2 agreement between the city and the administrator.

3 (3) Each city determined by the administrator to be
 4 paying an amount in excess of the amount necessary to
 5 amortize its liabilities under the prior plan and under
 6 [sections 1 through 53] shall receive a credit in the
 7 accounts of the administrator for the excess payments.

8 (4) For each city with an unfunded liability, any
 9 portion of the member, employer, and state contributions
 10 that exceeds the amount necessary to maintain the current
 11 level of unfunded liability must be applied to the reduction
 12 of the unfunded liability.

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

25 NEW SECTION. Section 26. Transfer of dormant member

1 account. The board may, in its discretion, transfer member
 2 contributions to the employer's account if the member's
 3 contribution account has been dormant for a period of 10
 4 years. No right of the member may be jeopardized by such a
 5 transfer, and the member contributions shall be transferred
 6 back to the member's name upon his subsequent reinstatement
 7 as an active member.

8 NEW SECTION. Section 27. Member contributions. The
 9 treasurer or other appropriate official of each employer
 10 shall retain from the monthly compensation of each active
 11 member a sum equal to 7% of his monthly compensation for his
 12 services as a firefighter. The monthly deduction from the
 13 salaries of firefighters shall be paid to the administrator
 14 for the purpose of paying the retirement allowances of
 15 retired firefighters and to defray expenses of the Montana
 16 state firemen's association as provided in [section 10].

17 NEW SECTION. Section 28. Vesting and withdrawal of
 18 contributions. A member is at all times fully vested in the
 19 deductions made from his compensation as a member or as a
 20 member of a prior plan standing to his credit and may, at
 21 his discretion, withdraw the full amount of these deductions
 22 upon his termination of employment in accordance with
 23 [section 17] and forfeit all rights and interest with
 24 respect to any benefits that would otherwise become payable
 25 under the plan.

1 NEW SECTION. Section 29. Redeposit of amounts
 2 withdrawn upon reinstatement. (1) Upon reinstatement to
 3 active membership, a member may redeposit in the fund, in
 4 one lump sum or in installments not to exceed 12 monthly or
 5 24 semimonthly installments, an amount equal to the member
 6 contributions that he withdrew plus an amount equal to the
 7 interest that would have been credited to his account had he
 8 not withdrawn his member contributions. If a member makes
 9 such a redeposit, his credited service shall be reinstated.
 10 (2) If an active member does not elect to make the
 11 redeposit provided for in subsection (1), he forfeits his
 12 credited service for the period attributable to the
 13 withdrawn member contributions.

14 NEW SECTION. Section 30. State contribution. The
 15 state shall make its contributions through the state auditor
 16 from the premium taxes on the insurance risks enumerated in
 17 19-11-512. These payments shall be made annually to the
 18 administrator after the end of each fiscal year but no later
 19 than September 1 from the gross premium taxes after
 20 deduction for cancellations and returned premiums. The
 21 administrator shall notify the auditor of the annual
 22 compensation, excluding overtime, holiday payments, shift
 23 differential payments, compensatory time payments, and
 24 payments in lieu of sick leave, paid to all active members
 25 during the preceding year, and the state's contribution is

1 18% of this compensation. As soon as practicable after
 2 receipt of the state contribution, the administrator shall
 3 deposit it with the state treasurer.

4 NEW SECTION. Section 31. Employer contribution. Each
 5 employer shall make its contribution on behalf of members
 6 through the city treasurer or other appropriate official
 7 from money available to the city for this purpose. Effective
 8 July 1, 1981, the employer's contribution is 12% of the
 9 total monthly compensation paid to all active members during
 10 the preceding month. This contribution shall increase to 15%
 11 effective July 1, 1982, and to 18% effective July 1, 1983.
 12 All contributions are payable monthly to the administrator
 13 who shall, as soon as practicable after their receipt,
 14 deposit them with the state treasurer.

15 NEW SECTION. Section 32. Taxing authority of
 16 employers. (1) For the purpose of making contributions
 17 required of a city under [sections 1 through 53], whenever
 18 the demand for deposits of such contributions cannot be met
 19 within the general taxing authority and other revenues
 20 available to the city for that purpose, the appropriate
 21 authority of the city may levy any additional tax authorized
 22 by law until the general taxing authority and other revenue
 23 available for that purpose is sufficient to meet the demand.
 24 (2) "General taxing authority", as used in this
 25 section, means that levy which the city may make under the

1 all-purpose levy or under multiple-purpose levies, if the
 2 city is using multiple-purpose levies.

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

6 NEW SECTION. Section 33. Other money credited as
 7 employer contributions. All gifts, bequests, and emoluments
 8 given to an employer or member for the benefit of the plan
 9 or because of any member's service as a firefighter, except
 10 when specifically allowed to be retained by the member by
 11 his employer, shall be paid to the administrator. The
 12 administrator shall credit them to the fund and, as soon as
 13 practicable after their receipt, deposit them with the state
 14 treasurer. Such amounts are employer contributions but are
 15 in addition to the amounts required by [section 31].

16 NEW SECTION. Section 34. Eligibility for service
 17 retirement. The following members are eligible for service
 18 retirement:

19 (1) a member who has reached age 50 and has completed
 20 10 years or more in the aggregate as a firefighter in any
 21 capacity or rank;

22 (2) a member who has reached mandatory retirement age
 23 under [section 35] regardless of his number of years of
 24 service.

25 NEW SECTION. Section 35. Mandatory retirement. (1) An

1 active member must retire on the first day of the month
 2 coinciding with or immediately following, if none coincides,
 3 the date on which he reaches age 65.

4 (2) A member who reaches mandatory retirement age may
 5 not be allowed creditable service for services rendered
 6 after the mandatory retirement date or contribute to the
 7 retirement system after this date.

8 NEW SECTION. Section 36. Application for service
 9 retirement. On or after a member's minimum retirement date
 10 and prior to his mandatory retirement date, he may retire on
 11 a service retirement allowance by making written application
 12 to the employer. The employer shall forward the application
 13 to the board not less than 30 days or more than 90 days
 14 before the elected retirement date. The application shall
 15 state the elected retirement date.

16 NEW SECTION. Section 37. Amount of retirement
 17 allowance. (1) (a) A member hired before July 1, 1981, who
 18 is eligible under [subsection (1) of section 34] and who
 19 elects to retire after completing 20 years of service and
 20 reaching age 50 as an active firefighter shall receive a
 21 service retirement allowance equal to one-half the monthly
 22 compensation last received by the member for his service as
 23 an active firefighter. A member who completes more than 20
 24 years of service shall receive an additional 1% of his final
 25 monthly compensation for each year in excess of 20, up to a

1 maximum of 60% of the monthly compensation last received by
 2 the member.

3 (b) A member hired before July 1, 1981, who is
 4 eligible under [subsection (1) of section 34] and who elects
 5 to retire after completing 10 years or more of service but
 6 has not both completed 20 years of service and reached age
 7 50 as an active firefighter shall receive a service
 8 retirement allowance equal to 2% of the monthly compensation
 9 last received by the member for each year of service up to a
 10 maximum of 60% of his final monthly salary.

11 (i) If the member dies after he is permanently
 12 separated from service and before he both reaches age 50 and
 13 completes 20 years of service as an active firefighter, the
 14 allowance prescribed in subsection (1)(b) must be made to
 15 the surviving spouse beginning on the date the firefighter
 16 would have both reached his 50th birthday and completed 20
 17 years of service as an active firefighter and terminating
 18 upon the surviving spouse's death or remarriage. If there is
 19 no surviving spouse or if the surviving spouse dies or
 20 remarries and if the firefighter leaves one or more
 21 dependent children, the children are entitled to receive the
 22 allowance as long as they remain dependent as defined in
 23 [section 4].

24 (ii) If the firefighter dies after he both reaches age
 25 50 and completes 20 years of service as an active

1 firefighter, the payments must be made to the surviving
 2 spouse or children as provided in subsection (1)(b)(i).

3 (2) A member hired on or after July 1, 1981, who:

4 (a) is eligible under [subsection (1) of section 34]
 5 shall receive a service retirement allowance equal to 2% of
 6 his final average salary for each year of service up to a
 7 maximum of 30 years of service;

8 (b) is eligible under [subsection (2) of section 34]
 9 shall receive a service retirement allowance equal to
 10 one-half his final average salary;

11 (c) is retired under [subsection (2) of section 34]
 12 and who was theretofore eligible at his option to be retired
 13 under [subsection (1) of section 34] but elected to serve
 14 additional years shall be paid for the additional years over
 15 his original eligibility at the rate prescribed in
 16 subsection (2)(a).

17 NEW SECTION. Section 38. Board's determination of
 18 disability. The board shall determine whether a member has
 19 become totally and permanently disabled. In making this
 20 determination, the board, any board member, or any
 21 authorized representative of the board may order medical
 22 examinations, conduct hearings, administer oaths and
 23 affirmations, take depositions, certify to official acts,
 24 and issue subpoenas to compel the attendance of witnesses
 25 and the production of books, papers, correspondence,

1 memoranda, and documents considered necessary as evidence in
 2 connection with the claim for disability retirement. The
 3 board shall secure medical service and advice necessary to
 4 carry out the purposes of this section and shall pay
 5 compensation for those medical services and advice.

6 NEW SECTION. Section 39. Eligibility for disability
 7 retirement. If a member is determined by the board to be
 8 totally and permanently disabled, he is entitled to receive
 9 a disability retirement allowance, regardless of the length
 10 of his service, beginning the first day after the date on
 11 which he became totally and permanently disabled.

12 NEW SECTION. Section 40. Amount of disability
 13 retirement allowance. (1) A member hired before July 1,
 14 1981, who is eligible under [section 39]:

15 (a) before completing 20 years of service shall
 16 receive a disability retirement allowance equal to one-half
 17 the monthly compensation last received by the member for his
 18 services as an active firefighter;

19 (b) after completing 20 years or more of service shall
 20 receive the disability retirement allowance provided in
 21 subsection (1)(a) increased at a rate of 1% for each year in
 22 excess of 20, up to a maximum of 60% of the monthly
 23 compensation last received by the member.

24 (2) A member hired on or after July 1, 1981, who is
 25 eligible under [section 39]:

1 (a) before completing 25 years of service shall
 2 receive a disability retirement allowance equal to one-half
 3 his final average salary;

4 (b) after completing 25 years or more of service shall
 5 receive the disability retirement allowance provided in
 6 subsection (2)(a) increased at a rate of 2% for each year in
 7 excess of 25, up to a maximum of 5 years of additional
 8 service.

9 NEW SECTION. Section 41. Medical examination of
 10 disability retiree -- cancellation of allowance. (1) The
 11 board in its discretion may require the recipient of a
 12 disability retirement allowance to undergo a medical
 13 examination at the board's expense. The examination must be
 14 made by a physician or surgeon at the recipient's place of
 15 residence or at another place mutually agreed on. Based on
 16 the results of the examination, the board shall determine
 17 whether the recipient has the physical or mental capacity to
 18 perform the duties required by his position. If the board
 19 determines that the recipient is not incapacitated or if the
 20 recipient refuses to submit to a medical examination, his
 21 disability retirement allowance shall be canceled. The
 22 board shall notify the recipient of this determination and
 23 the cancellation of his allowance.

24 (2) The cancellation of a disability allowance because
 25 a member is no longer incapacitated does not prejudice any

1 right of the member to a service retirement benefit.

2 NEW SECTION. Section 42. Reinstatement upon
 3 termination of allowance. (1) (a) An inactive member whose
 4 disability retirement allowance is canceled as provided in
 5 [section 41] shall be reinstated to the position held by him
 6 immediately before his retirement or to a position in the
 7 same classification with duties within his capacity if an
 8 appropriate vacancy exists within his fire department. The
 9 board shall advise the employer that the disability
 10 retirement allowance has been canceled and that the inactive
 11 member is eligible for reinstatement to duty. The fact that
 12 he was retired for disability may not prejudice any right to
 13 reinstatement to duty which the inactive member may have or
 14 claim to have.

15 (b) If no appropriate vacancy exists within an
 16 inactive member's fire department when his disability
 17 allowance is canceled under [section 41], his allowance must
 18 be reinstated until a vacancy occurs.

19 (2) The city may request a medical or psychological
 20 review as to the ability of the member to return to work as
 21 a firefighter. If the board's findings are upheld, the city
 22 shall pay the costs of the review.

23 (3) If the inactive member again becomes an active
 24 member by returning to active work for an employer within 30
 25 days following his receipt of notice under [section 41], he

1 shall be considered to have been continuously employed
 2 during the term of his disability. If the inactive member
 3 fails to become an active member by returning to active work
 4 for an employer within 30 days following receipt of this
 5 notice, his termination of employment shall be considered to
 6 have occurred as of his disability retirement date and the
 7 retirement allowance, if any, to which he becomes entitled
 8 on his service retirement shall be determined accordingly.

9 **NEW SECTION.** Section 43. Payment of service or
 10 disability allowance upon death of member. A member's
 11 service or disability allowance shall be paid first to the
 12 member during his lifetime and, upon his death, to his
 13 surviving spouse as long as such spouse remains unmarried.
 14 If upon a member's death he leaves no surviving spouse, or
 15 upon the death or remarriage of a surviving spouse, his
 16 allowance shall be paid to his dependent children as long as
 17 they remain dependent as defined in [section 4].

18 **NEW SECTION.** Section 44. Survivorship allowance.
 19 (1) (a) Upon the death before retirement of an active member
 20 hired before July 1, 1981, his surviving spouse, if there is
 21 one, shall, as long as such spouse remains unmarried,
 22 receive a survivorship allowance equal to one-half the
 23 monthly compensation last received by the member for his
 24 service as an active firefighter. If the member leaves one
 25 or more dependent children, then, upon his death if he

1 leaves no surviving spouse or upon the death or remarriage
 2 of the surviving spouse, his dependent children shall
 3 collectively receive the same allowance that a surviving
 4 spouse would have received as long as the children remain
 5 dependent as defined in [section 4].

6 (b) If the deceased member completed over 20 years of
 7 service, the survivorship allowance provided in subsection
 8 (1)(a) must be increased at a rate of 1% for each year in
 9 excess of 20, up to a maximum of 60% of the monthly
 10 compensation last received by the member.

11 (2) Upon the death before retirement of a member hired
 12 on or after July 1, 1981, his surviving spouse, if there is
 13 one, shall, as long as such spouse remains unmarried,
 14 receive a survivorship allowance equal to one-half of the
 15 member's final average salary. If the firefighter leaves one
 16 or more dependent children, then, upon his death if he
 17 leaves no surviving spouse or upon the death or remarriage
 18 of the surviving spouse, his dependent children shall
 19 collectively receive the same allowance that a surviving
 20 spouse would have received, as long as the children remain
 21 dependent as defined in [section 4].

22 **NEW SECTION.** Section 45. Payment of death benefits in
 23 absence of spouse or child. If a member dies without leaving
 24 a surviving spouse or children, the administrator shall
 25 compute the total contributions made to the fund by the

1 deceased member, and if the deceased member had designated a
 2 beneficiary in writing to the administrator, the administrator shall issue a warrant for the amount of the
 3 total contributions payable to that beneficiary. If the deceased member had not nominated a beneficiary, the contributions shall be paid to his estate.

7 NEW SECTION. Section 46. Allowance adjustment. For a
 8 member hired on or after July 1, 1973, but before July 1, 1981, and his surviving spouse or dependent children, the
 10 service retirement allowance provided in [subsection (1)(a) of section 37], the disability retirement allowance provided
 12 in [subsection (1) of section 40], and the survivorship allowance provided in [subsection (1) of section 44] may not
 14 be less than one-half the monthly compensation paid to a
 15 newly confirmed, active firefighter of a city that last
 16 employed him as a firefighter, as provided each year in the
 budget of that city.

18 NEW SECTION. Section 47. Retirement allowances to be
 19 monthly and fixed. The retirement allowances granted under
 20 the provisions of [sections 1 through 53] shall be paid in
 21 monthly installments and may not be increased or decreased,
 22 except as specifically provided in [sections 1 through 53].

23 NEW SECTION. Section 48. Correction of erroneous
 24 payments. If any change in records fraudulently made or any
 25 mistake in records inadvertently made results in any member,

1 survivor, or beneficiary receiving more or less than he was
 2 entitled to, then, on the discovery of the error, the board
 3 shall correct the error and adjust the payments to the
 4 member, survivor, or beneficiary in an equitable manner.

5 NEW SECTION. Section 49. Exemption from taxes. Any
 6 money received as a retirement allowance in accordance with
 7 the provisions of [sections 1 through 53] is exempt from any
 8 state or municipal tax.

9 NEW SECTION. Section 50. Protection from legal
 10 process — unassignability. The benefits payable under
 11 [sections 1 through 53] are not subject to the claims of any
 12 creditor of a member, beneficiary, or survivor or to
 13 attachment, garnishment, or other legal or equitable
 14 process. No member, beneficiary, or survivor may alienate,
 15 anticipate, commute, pledge, encumber, assign, or sell any
 16 of such benefits.

17 NEW SECTION. Section 51. Payment of insurance
 18 premiums. The board shall annually authorize an expenditure
 19 from the fund to the Montana state firemen's association for
 20 the payment of premiums on a group life and accidental death
 21 and dismemberment insurance policy for members. This payment
 22 may not exceed 4/5 of 1% of the annual compensation,
 23 excluding overtime, holiday payments, shift differential
 24 payments, compensatory time payments, and payments in lieu
 25 of sick leave, paid to all active members during the

1 preceding year.

2 NEW SECTION. Section 52. Withholding of group
 3 insurance premium from retirement benefit. A retiree who is
 4 a participant in an employee group insurance plan that
 5 permits participation in the group plan following retirement
 6 may elect to have the monthly premium for such group
 7 insurance withheld by the administrator and paid directly by
 8 the administrator to the insurance carrier. To qualify for
 9 this withholding, a retiree must be a participant in a group
 10 insurance plan available to the employees of his former
 11 employer. No withholding may be made for any retiree covered
 12 by an individual insurance policy.

13 NEW SECTION. Section 53. Supplement to certain
 14 retirement allowances. The plan shall pay to each
 15 firefighter retired before July 1, 1973, or his surviving
 16 spouse and children a monthly retirement allowance of not
 17 less than one-half the regular monthly salary paid to a
 18 confirmed active firefighter of the city that last employed
 19 him as a firefighter, as provided each year in the budget of
 20 that city. In the case of volunteer firefighters, the
 21 retirement allowance may not exceed \$75 per month.
 22 Distribution of the funds provided for this purpose under
 23 19-11-606(l) shall be made as follows:

24 (1) At the beginning of each fiscal year the
 25 administrator shall request and the state auditor shall

1 issue from the earmarked revenue fund and deliver to the
 2 administrator an amount certified to be equal to the total
 3 annual dollar difference between what the retirees or their
 4 surviving spouses and children received from the fund and
 5 one-half of the salary paid by the respective city or town
 6 to a confirmed active firefighter for the fiscal year just
 7 preceding.

8 (2) The administrator shall use the funds to increase
 9 the monthly retirement allowances of the retirees or their
 10 surviving spouses and children to an amount equal to
 11 one-half of the salary that was paid to a confirmed active
 12 firefighter in the respective city or town for the preceding
 13 year.

14 Section 54. Section 19-9-1007, MCA, is amended to
 15 read:

16 "19-9-1007. Supplement to certain pensions. (1) The
 17 payment for each fiscal year to the police officers,
 18 spouses, or minor children described in subsections (2)(a)
 19 through (2)(c) may be not less than one-half of the base
 20 salary paid in the previous calendar year in the appropriate
 21 city or town to newly confirmed police officers, except that
 22 for the fiscal year beginning July 1, 1979, all retirees and
 23 their beneficiaries who received a supplement to their
 24 retirement allowance on July 1, 1978, and are receiving an
 25 allowance on July 1, 1979, shall receive a 3% increase in

1 their retirement allowance in lieu of any other increase.

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

5 (a) the names of all police officers who are receiving
6 payments from the plan as of the date of the report and were
7 receiving payments from a prior plan before July 1, 1975;

8 (b) the names of all spouses or minor children who are
9 receiving payments from the plan because of the death of a
10 police officer who was receiving payments from a prior plan
11 before July 1, 1975;

12 (c) the names of all spouses or minor children who are
13 receiving payments from the plan and who were receiving
14 payments from a prior plan before July 1, 1975, or in the
15 case of minor children, whose parent, the spouse of a police
16 officer, was receiving payments from a prior plan before
17 July 1, 1975;

18 (d) for the purpose of determining the base figure for
19 the computations set forth in subsection (3), the following
20 information relating to the base fiscal year commencing July
21 1, 1976:

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

24 (ii) the amount of the payments made in the base fiscal
25 year to each spouse or minor child (or children) described

1 in subsection (2)(b) or (2)(c);

2 (iii) upon the death after April 18, 1977, of any
3 police officer on the retired list who was receiving
4 payments from a prior plan before July 1, 1975, and who is
5 survived by a spouse or minor children entitled to receive
6 payments from the plan, the amount which would have been
7 paid to an eligible spouse of such police officer had that
8 spouse been receiving payments in the base fiscal year;

9 (e) the base salary for the previous calendar year of
10 a newly confirmed police officer of each city or town
11 participating in the plan.

12 (3) The state auditor shall, upon receipt of the
13 report referred to in subsection (2), compute the difference
14 between each amount reported under subsections (2)(d)(i)
15 through (2)(d)(iii) and one-half the base salary for the
16 previous calendar year of a newly confirmed police officer
17 of the appropriate city or town. The difference shall be
18 paid by the state auditor out of the premium tax collected
19 on insurance sold in this state to insure against the risks
20 enumerated in 19-11-512~~513~~ to the administrator no later
21 than May 31 of each year. This payment is in addition to the
22 payment to be made by the state auditor under 19-9-702. The
23 administrator shall use the funds received under this
24 subsection to supplement the monthly payments to persons
25 described in subsections (2)(a) through (2)(c) so that the

1 requirements of subsection (1) are met.

2 (4) In addition to the payments made by the auditor as
 3 provided in subsection (3), the auditor shall make annual
 4 payments of \$100,000 on or before June 30 of each year until
 5 the sum of \$500,000 has been paid to the administrator for
 6 deposit in the retirement account. These payments are to be
 7 made to reimburse the retirement account for funds advanced
 8 to implement this section.

9 (5) If more than one minor child is entitled to
 10 supplementary payments under this section by virtue of the
 11 death of a common parent police officer, the minimum payment
 12 to such minor children under this section shall be
 13 determined as if there were one such minor child and the
 14 supplementary payment shall be made to the minor children
 15 collectively."

16 Section 55. Section 19-11-401, MCA, is amended to
 17 read:

18 "19-11-401. Management of association. The management
 19 of the fire department relief associations in-municipalities
 20 other--than--first--and--second--class--cities is vested in the
 21 boards of trustees, except as provided in 19-11-402 and
 22 19-11-403."

23 Section 56. Section 19-11-403, MCA, is amended to
 24 read:

25 "19-11-403. Investment of fund by board of

1 investments. (1) When Whenever the average yield on
 2 investments of public retirement funds under the board of
 3 investments exceeds by 1% in any fiscal year the average
 4 yield on investments of the fund made pursuant to 19-11-402,
 5 the surplus money in the fund shall be remitted to the state
 6 treasurer for investment by under the direction of the board
 7 of investments as is provided in ~~19-11-302-for--associations~~
~~in--first--and--second--class--cities 17-6-204~~. The department
 9 of community affairs shall advise the association of the
 10 current yield on investments of public retirement funds.

11 (2) As used in subsection (1), "surplus money" means
 12 the excess over the greater of the following:

13 (a) 1 1/2 times the monthly benefit paid in the
 14 preceding month; or
 15 (b) \$5,000."

16 Section 57. Section 19-11-504, MCA, is amended to
 17 read:

18 "19-11-504. Amount of special tax levy. (1) Whenever
 19 the--total--amount--of--the--fund--is--less--than--2%--of--the--taxable
 20 valuation--of--all--taxable--property--within--the--limits--of--the
 21 city--or--town,--the--special--tax--levy--shall--be
 22 not--less--than--1--mill--or--more--than--4--mills--on--each
 23 dollar--of--taxable--valuation--of--all--taxable--property--within
 24 the--limits--of--the--city--or--town--and
 25 (b) an--amount--sufficient--to--provide--a--growth--per--year

1 in-the-fund--considering-all-sources-of-income-to--the--fund
 2 and-the-payment-of-obligations-out-of-the-fund--equal-to-the
 3 sum-produced--by-1-mill-levied-on-the-taxable-valuation-of
 4 all-the-taxable-property-in-the-city-or-town.

5 (2)--The-special-tax-levy-shall-be-a-fractional-part-of
 6 1-mill--whenever+

7 (a)--the-total-amount-of-the-fund-is-less-than--2%--but
 8 more--than--1%--of--the--taxable--valuation--of--all--taxable
 9 property-within-the-city-or-town--and

10 (b)--the-special-tax-levy-of-a--fractional--part--of--1
 11 mill--will--produce--sufficient--revenue--to--cause--the--fund
 12 considering-all-sources--of--income--to--the--fund--and--all
 13 payments--to--be--made--out--of--the--fund--to--exceed--2%--of--the
 14 taxable-valuation-of-all-taxable-property-within-the-city-or
 15 town.

16 (3)--in-cities-of-the-third-class--when Whenever the
 17 fund contains an amount which is less than 2% of the taxable
 18 valuation of all taxable property in the city or town, the
 19 city council shall levy an annual special tax of not less
 20 than 1 mill and not more than 4 mills on each dollar of
 21 taxable valuation of all taxable property within the city or
 22 town."

23 Section 58. Section 19-11-512, MCA, is amended to
 24 read:

25 "19-11-512. State auditor to pay association out of

1 insurance premium taxes. (1)--At-the-end-of-the-fiscal--year
 2 the--state--auditor--shall--issue--and--deliver--the--payment
 3 described-in-this-subsection-to-the--board-of-investments-to
 4 be--credited--to--the--account--of--each--fire--department--relief
 5 association--of--any--city--or--town--of--the--first--or--second--class
 6 which--has--a--fire--department--relief--association--entitled--by
 7 law--to--receive--payments.--The--state--auditor--shall--at--the
 8 same--time--report--to--the--treasurer--of--the--association--the
 9 amount--of--the--payments--The--payment--shall--be--for--the--use--and
 10 benefit--of--the--association--It--shall--be--paid--out--of--the
 11 premium--taxes--on--insurance--risks--enumerated--in--subsection
 12 (6)--collected--by--the--state--auditor--and--shall--be--equal--to--10%
 13 of--the--total--annual--compensation--paid--by--the--city--or--town--to
 14 its--paid--or--part--paid--firefighters--for--services--in--the
 15 previous--calendar--year--The--city--clerk--of--the--city--or--town
 16 shall--certify--in--writing--to--the--state--auditor--on--or--before
 17 April--1--of--each--year--the--amount--paid--by--the--city--or--town--as
 18 compensation--for--services--to--paid--or--part--paid--firefighters.
 19 (2)--When--there--is--a--disaster--resulting--in--death--or
 20 injury--sufficient--to--draw--the--pensions--of--10%--of--the--active
 21 force--and--the--fund--after--receiving--all--moneys--provided--for
 22 in--19-11-501,--19-11-503,--19-11-504--and--subsection--(1)--of
 23 this--section--does--not--show--at--least--the--1--mill--growth
 24 referred--to--in--19-11-504,--the--treasurer--of--the--association
 25 shall--request--and--the--state--auditor--shall--issue--and--deliver

1 on-additional-payment-under-the-same-conditions-described-in
 2 subsection-~~fit~~. The payment shall be in an amount sufficient
 3 to cause at least the above-mentioned plus growth in the
 4 funds.

5 ~~f3~~--if-a-city-is-not-entitled-to-receive-a-sum-equal
 6 to-1 1/2-mills-of-its-total-taxable-value-under-subsections
 7 ~~fit~~-and-~~f2~~--the-payment-shall-be-made-in-the-amount
 8 provided-in-subsections-~~f4~~-and-~~f5~~-for-cities-of-the-third
 9 class-and-in-the-manner-described-in-subsection-~~fit~~.

10 f4~~f1~~ At the end of the fiscal year, the state
 11 auditor shall issue and deliver the warrant described in
 12 this subsection to the treasurer of every city or town
 13 except--cities-and-towns-of-the-first-or-second-class, which
 14 has a fire department relief association entitled by law to
 15 receive payments. The warrant shall be for the use and
 16 benefit of the association. It shall be for an amount equal
 17 to 1 1/2 mills of the total taxable value of the city or
 18 town and shall be paid out of the premium taxes on insurance
 19 risks enumerated in subsection ~~f6~~ f3 collected by the
 20 state auditor.

21 f5~~f2~~ If the payment provided for in subsection ~~f4~~
 22 f1 is less than \$100, an additional payment shall be made
 23 from the same tax moneys so that the total amount received
 24 is \$100.

25 ~~f6~~f3 The risks referred to in subsection subsection

1 (1) and-~~f4~~ are:
 2 (a) insurance of houses, buildings, and all other
 3 kinds of property against loss or damage by fire or other
 4 casualty;
 5 (b) all kinds of insurance on goods, merchandise, or
 6 other property in the course of transportation, whether by
 7 land, water, or air;
 8 (c) insurance against loss or damage to motor vehicles
 9 resulting from accident, collision, or marine and inland
 10 navigation and transportation perils;
 11 (d) insurance of growing crops against loss or damage
 12 resulting from hail or the elements;
 13 (e) insurance against loss or damage by water to any
 14 goods or premises arising from the breakage or leakage of
 15 sprinklers, pumps, or other apparatus;
 16 (f) insurance against loss or legal liability for loss
 17 because of damage to property caused by the use of teams or
 18 vehicles, whether by accident or collision or by explosion
 19 of any engine, tank, boiler, pipe, or tire of any vehicle;
 20 and
 21 (g) insurance against theft of the whole or any part
 22 of any vehicle."

23 Section 59. Section 19-11-513, MCA, is amended to
 24 read:

25 "19-11-513. Transfer of premium taxes to state

1 treasury. The state auditor shall estimate the portion of
 2 premium taxes needed to make the payments required by this
 3 chapter and shall pay an amount equal to the estimate into
 4 the state treasury, to the credit of the earmarked revenue
 5 fund. ~~the--state--auditor--shall--pay--the--actuary--fee--as~~
 6 ~~required--by--19-11-303.~~ Any balances remaining after such
 7 payments have been ordered shall be transferred to the
 8 general funds."

9 Section 60. Section 19-11-514, MCA, is amended to
 10 read:

11 "19-11-514. State treasurer to pay warrants. The state
 12 treasurer is hereby authorized and directed, upon the
 13 presentation to him of a warrant drawn pursuant to this
 14 chapter, to pay:

15 ~~(1)--in-the-case-of-a-municipality-other-than-a-city-of~~
 16 ~~the-first-or-second-class~~ to the treasurer of the city or
 17 town, out of moneys in the earmarked revenue fund dedicated
 18 for such purpose, the amount of such warrant specified,
 19 which amount shall be paid by said city treasurer to said
 20 fire department relief associations.

21 ~~(2)--in-the-case-of-a-city--of--the--first--or--second~~
 22 ~~class~~--to--the--board--of--investments--to--be--credited--to--the
 23 account--of--the--fire--department--relief--association--out--of
 24 the--money--in--the--earmarked--revenue--fund--dedicated--for--such
 25 purpose--the--amount--of--the--warrants."

1 Section 61. Section 19-11-606, MCA, is amended to
 2 read:

3 "19-11-606. Supplement to certain pensions. (1) In
 4 addition to the taxes on premiums required by law to be paid
 5 by each insurer doing business in this state that is
 6 authorized to effect insurance on risks enumerated in
 7 19-11-512, there is a tax of 1 1/2% on the fire portion of
 8 the direct premiums received during the calendar year of
 9 1975 and each succeeding year, with allowance for
 10 cancellations and returned premiums. The insurance
 11 commissioner shall collect the tax during March of each year
 12 and deposit the moneys in the earmarked revenue fund. The
 13 auditor shall pay claims as provided in subsection (2) of
 14 this section and [section 53]. As those persons who are to
 15 receive the fund die, the tax shall be reduced
 16 proportionately, and when no eligible person, as defined by
 17 subsection (2) and [section 53], survives, the tax
 18 terminates and the remaining fund, if any, shall be
 19 transferred to the general fund.

20 (2) Effective January 1, 1976, each association shall
 21 pay to the firefighters retired before July 1, 1973, or
 22 their surviving spouses and children a monthly pension of
 23 not less than one-half the regular monthly salary paid to a
 24 confirmed active firefighter of that city, as provided each
 25 year in the budget of that city. In the case of volunteer

1 firefighters, the pension may not exceed \$75 per month.
 2 Distribution of the funds provided for this purpose under
 3 subsection (1) shall be made as follows:

4 (a) At the beginning of each fiscal year the treasurer
 5 of each association shall request and the state auditor
 6 shall issue from the earmarked revenue fund and deliver--in
 7 the-case-of-a-municipality-other-than-a-city-of-the-first-or
 8 second-class to the treasurer of the respective city or
 9 town or--in-the-case-of-a-city-of-the-first-or-second-class
 10 to-the-board-of-investments-to-be-credited-to-the-account-of
 11 the-fire-department-relief-association an amount certified
 12 to be equal to the total annual dollar difference between
 13 what the retirees or their surviving spouses and children
 14 received from the fund and one-half of the salary paid by
 15 the respective city or town to a confirmed active
 16 firefighter for the fiscal year just preceding. The state
 17 auditor shall, at the same time, report to the treasurer of
 18 the appropriate association the amount of any payment
 19 delivered to the board of investments.

20 (b) The treasurer of a city or town receiving funds
 21 shall immediately disburse them to the treasurer of the
 22 respective association.

23 (c) The treasurer of the association shall utilize
 24 these funds to increase the monthly pension of retirees or
 25 their surviving spouses and children to an amount equal to

1 one-half of the salary that was paid to a confirmed active
 2 firefighter in the city or town for the preceding year."

3 Section 62. Section 19-12-301, MCA, is amended to
 4 read:

5 "19-12-301. Fire insurance premium tax to be paid into
 6 fund. The state auditor and ex officio commissioner of
 7 insurance shall annually deposit in the volunteer
 8 firefighters' fund a sum equivalent to 5% of the premium
 9 taxes collected from insurers authorized to effect insurance
 10 against risks enumerated in 19-11-512, computed after the
 11 amounts provided for by [section 30] and 19-11-512 have
 12 first been deducted. The moneys shall be used for the
 13 payment of claims and administrative costs as provided in
 14 this chapter."

15 Section 63. Repealer. Sections 19-11-301 through
 16 19-11-303, MCA, are repealed.

17 Section 64. Effective date. (1) Section 6 is effective
 18 on passage and approval.

19 (2) Sections 1 through 63, except for section 6, are
 20 effective on July 1, 1981.

-End-

1 **STATEMENT OF INTENT**2 **HOUSE BILL 674**3 **House Committee on State Administration**

4

5 A statement of intent is required for this bill in that
6 it delegates rulemaking authority to the Public Employees'
7 Retirement Board for the proper administration of the
8 Montana Firefighters' Unified Retirement System.

9 It is contemplated that the rules will address the
10 following:

11 (1) interpretation and enforcement of the provisions
12 of this act;

13 (2) establishment of uniform rules to administer the
14 provisions of this act;

15 (3) determination of conditions under which a person
16 may become a member and receive benefits under the
17 retirement system;

18 (4) determination of retirement disability and
19 survivorship allowances under the provisions of this act;

20 (5) establishment of policy for the maintenance of
21 records and accounts for administering the retirement
22 system;

23 (6) selection procedures for contracting with a
24 qualified actuary to conduct actuarial valuation of the
25 system.

Approved by Comm.
on Appropriations

Rereferrals

HOUSE BILL NO. 674

INTRODUCED BY FABREGA, NILSON, DUSSAULT,
VINCENT, R. MANNING, LEE, GOULD, P. RYAN

5 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A
6 FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM AND PROVIDING FOR
7 ITS ADMINISTRATION; AMENDING SECTIONS 19-9-1007, 19-11-401,
8 19-11-403, 19-11-504, 19-11-512* THROUGH 19-11-514,
9 19-11-606, and 19-12-301, MCA; REPEALING SECTIONS 19-11-301
10 THROUGH 19-11-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
11 DATE DATES."

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

Refer to Introduced Bill

15 (Strike everything after the enacting clause and insert:)

16 NEW SECTION. Section 1. Short title. [Sections 1
17 through 53 52] may be cited as the "Montana Firefighters'
18 Unified Retirement Act".

19 NEW SECTION. Section 2. Purpose -- application of
20 prior law. (1) Because cities other than those of the first
21 or second class currently have fire department relief
22 associations, the legislature finds and declares that the
23 law regarding these associations cannot be repealed. It is
24 the express intention of the legislature to allow two
25 separate and distinct retirement systems to exist. The

1 first, which includes fire department relief associations,
2 applies to cities other than those of the first or second
3 class that wish to adopt it. The second, created by
4 [sections 1 through 53 52], applies to cities of the first
5 or second class and those other cities that wish to adopt
6 it. The purpose of the second system is to provide equity
7 and security for retired firefighters who served cities of
8 the first and second class and other cities electing to join
9 the plan by creating a centrally administered system
10 responsible for continuing all retirement payments from the
11 assets of the system.

12 (2) Title 19, chapter 11, may not be applied in any
13 way to a city operating under the plan created by [sections
14 1 through 59 52] except as otherwise provided.

19 NEW SECTION. Section 4. Definitions. Unless the
20 context requires otherwise, the following definitions apply
21 in [sections 1 through 53 52]:

22 (1) "Administrator" means the public employees' retirement division of the department of administration.

24 {2} "Board" means the retirement board described in
25 2-15-1009.

1 (3) "Credited service" means the aggregate of a
2 member's prior service and membership service.

3 (4) "Dependent child" means a child of a deceased
4 member who is:

5 (a) unmarried and under age 18; or

6 (b) unmarried, under age 24, and attending an
7 accredited postsecondary educational institution as a
8 full-time student in anticipation of receiving a certificate
9 or degree.

10 (5) "Employer" means any city that is of the first or
11 second class or that elects to join this plan under [section
12 8].

13 (6) "Final average salary" means the monthly
14 compensation of a member hired on or after July 1, 1981,
15 averaged over the last 36 months of his active service or,
16 if he has not been a member that long, over the period of
17 his membership.

18 (7) "Firefighter" means a person employed as a full-
19 or part-paid firefighter by an employer.

20 (8) "Full-paid firefighter" means a person appointed
21 as a firefighter under 7-33-4106.

22 (9) "Fund" means the agency account in the state
23 treasury system designated for the use of the plan.

24 (10) "Member" means a person who is employed by an
25 employer as a full- or part-paid firefighter or who is

1 entitled to a retirement allowance by virtue of his service
2 to an employer as a firefighter.

3 (11) "Member contributions" means the total of the
4 deductions from a member's compensation made during a period
5 of active membership under [sections 1 through 53 52] or
6 made under a prior plan and transferred to this plan,
7 standing to his credit, together with the interest thereon.

8 (12) "Membership service" means a period of employment
9 with an employer occurring after July 1, 1981, during which
10 the withholdings required by [sections 1 through 53 52] have
11 been made from a member's monthly compensation and credited
12 to his member contributions account. Pro rata credit shall
13 be granted for employment on a part-time basis or for
14 employment over a period of less than a complete fiscal
15 year.

16 (13) "Minimum retirement date" means the first day of
17 the month coinciding with or immediately following, if none
18 coincides, the date on which a member becomes both age 50 or
19 older and completes 10 or more years of credited service.

20 (14) "Monthly compensation" means:

21 (a) for a full-paid firefighter, the regular monthly
22 compensation, excluding overtime, holiday payments, shift
23 differential payments, compensatory time payments, and
24 payments in lieu of sick leave, paid by an employer for his
25 service as a firefighter;

1 (b) for a part-paid firefighter employed by a city of
 2 the second class, 15% of the average regular monthly
 3 compensation, excluding overtime, holiday payments, shift
 4 differential payments, compensatory time payments, and
 5 payments in lieu of sick leave, paid to all newly confirmed,
 6 active firefighters employed by cities of the second class
 7 on July 1 of each year.

8 (15) Any reference to "municipality", "city", or "town"
 9 includes those jurisdictions which, prior to the effective
 10 date of a county-municipal consolidation, were incorporated
 11 municipalities, subsequent districts created for urban
 12 firefighting services, or the entire county included in the
 13 county-municipal consolidation.

14 (16) "Part-paid firefighter" means a person employed
 15 under 7-33-4109 who receives compensation in excess of \$300
 16 a year for his service as a firefighter.

17 (17) "Plan" means the municipal firefighters'
 18 retirement system created by [sections 1 through 53 52].

19 (18) "Prior plan" means the fire department relief
 20 association plan of a city that elects to join the plan
 21 under [section 8] or the fire department relief association
 22 plan of a city of the first or second class.

23 (19) "Prior service" means a period of employment as a
 24 firefighter for which credit was granted to a member under a
 25 prior plan and has been transferred to this plan.

1 (20) "Retirement allowance" means the monthly benefit
 2 payable after service or disability retirement.

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

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

11 NEW SECTION. Section 5. Participation in plan by
 12 first- and second-class cities. Cities of the first and
 13 second class that employ full-paid firefighters must
 14 participate in the plan. If a city of the first or second
 15 class is reduced to a city of the third class or a town
 16 under 7-1-4118, it must continue to participate in the plan
 17 as long as it has retired firefighters or beneficiaries
 18 eligible to receive retirement benefits.

19 NEW SECTION. Section 6. Transfer of assets and
 20 liabilities from prior plans. All funds and obligations
 21 constituting the assets and liabilities of prior plans,
 22 regardless of their form or who holds them, must be
 23 transferred to the account provided for in [section 22]. The
 24 board shall determine the amounts to be apportioned to each
 25 account on [the effective date of this section], and the

1 department of administration and the boards of trustees of
 2 the fire department relief associations shall transfer such
 3 amounts to the appropriate accounts on July 1, 1981.

4 NEW SECTION. Section 7. Effect on members of prior
 5 plans. A firefighter hired before July 1, 1981, who was a
 6 member of a prior plan and who becomes a member of this plan
 7 retains all rights and benefits accrued under a prior plan.

8 NEW SECTION. Section 8. Election to join plan --
 9 transfer of assets. (1) Except for cities with only
 10 volunteer firefighters, a city other than one described in
 11 [section 5] may, after July 1, 1981, elect to join the plan
 12 by passing an ordinance stating the election and the consent
 13 of the city to be bound by the provisions of [sections 1
 14 through 53 52]. The fire department relief association of
 15 the city may pass a resolution to the same effect. Upon the
 16 enactment of the ordinance and passage of the resolution,
 17 the provisions of [sections 1 through 53 52] become
 18 applicable to the city. Any city that enacts such an
 19 ordinance and in which the fire department relief
 20 association passes such a resolution shall send certified
 21 copies thereof to the board and shall, as soon as possible
 22 thereafter, deposit with the board all cash and securities
 23 held by its fire department relief association. The value of
 24 the securities shall be determined by the board.

25 (2) The board of trustees of the fire department

1 relief association as of the effective date of the election
 2 shall certify the proportion, if any, of the funds of the
 3 association that represents the accumulated contributions of
 4 the active members and the relative shares of the members as
 5 of that date. Following the transfer of the cash and
 6 securities required by subsection (1) and the certification
 7 required by this subsection, the fire department relief
 8 association may conclude its affairs. The shares of the
 9 members shall be charged to the employer and credited to the
 10 respective individual accounts of the members in the plan
 11 and administered as if the contributions had been made
 12 during membership in the plan. Any excess of employer
 13 credits over charges under this section will be offset, with
 14 interest, against future required employer contributions.
 15 Any excess of employer charges over credits under this
 16 section are payable by the employer, with interest, on a
 17 basis determined by the procedure described in [section 24].

18 NEW SECTION. Section 9. Penalty for fraud. (1) No
 19 person may knowingly make any false statement or permit to
 20 be falsified any records of the plan in an attempt to
 21 defraud the plan.

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

1 months, or both.

2 NEW SECTION. Section 10. Firemen's association to
 3 advise boards ---payment-to-the-association-from-funds---
 4 The Montana state firemen's association shall serve as an
 5 advisor to the board and may meet quarterly with the board
 6 to discuss matters relating to the administration of
 7 [sections 1 through 53 52]. The association may review all
 8 medical and legal information available to the board
 9 relating to service, disability, and survivorship benefits
 10 for members of the plan.

11 ~~(2) in June of each year the association shall receive annually from the fund an amount equal to 1/5 of its
 12 of the annual compensation paid to active members of the
 13 plan to defray expenses incurred by the association when
 14 representing members of the plan.~~

15 NEW SECTION. Section 11. Power and duties of board.
 16 The powers and duties of the board include:

17 (1) administering, interpreting, and enforcing the
 18 provisions of [sections 1 through 53 52];

19 (2) establishing uniform rules to administer the
 20 provisions of [sections 1 through 53 52];

21 (3) determining the conditions under which persons may
 22 become members of and receive benefits under the retirement
 23 system; and

24 (4) determining allowances for retirement and

1 disability under [sections 1 through 53 52].

2 NEW SECTION. Section 12. Department to provide forms
 3 --- information from employers. The department of
 4 administration shall prepare such forms as it finds
 5 necessary for the employers to complete to provide all the
 6 information necessary to administer [sections 1 through 53
 7 52], and the cities shall give the department of
 8 administration all data necessary to carry out the purpose
 9 and intent of [sections 1 through 53 52].

10 NEW SECTION. Section 13. Administrative expenses. (1)
 11 The expense of administering [sections 1 through 53 52],
 12 exclusive of the payment of retirement allowances and other
 13 benefits, may be paid from the fund.

14 (2) Before July 15 of each year, the board may compute
 15 the administrative costs for the immediately preceding
 16 fiscal year and transfer that amount from the fund to the
 17 public employees' retirement system account in the agency
 18 fund.

19 NEW SECTION. Section 14. Active membership. (1) A
 20 full-paid firefighter becomes an active member under the
 21 plan:

22 (a) on the first day of his employment by an employer;

23 (b) on July 1, 1981, if he is employed by an employer
 24 on that date; or

25 (c) in the case of an employer that elects to join the

1 plan as provided in [section 8], on the effective date of
 2 such election if he is employed by the employer on that
 3 date.

4 (2) Upon becoming eligible for membership, he shall
 5 complete the forms and furnish any proof required by the
 6 board.

7 (3) A part-paid firefighter may elect to become a
 8 member of the plan by filing a membership application with
 9 the board.

10 NEW SECTION. Section 15. Ineligibility for other
 11 retirement plans. No active member is eligible to be covered
 12 under any other mandatory retirement plan for firefighters
 13 to which an employer is required to contribute on his behalf
 14 while he is eligible to be covered by this plan.

15 NEW SECTION. Section 16. Inactive membership. (1) An
 16 active member becomes an inactive member upon the occurrence
 17 of the earlier EARLIEST of the following:

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

20 (b) the 31st day of an approved absence from active
 21 duty with an employer; OR

22 (c) THE DATE HE CEASES TO BE EMPLOYED BECAUSE OF A
REDUCTION OF THE NUMBER OF FIREFIGHTERS IN THE FIRE
DEPARTMENT AS PROVIDED IN 7-33-6125.

25 (2) An inactive member becomes an active member on the

1 day he returns to active duty with an employer. Upon again
 2 becoming an active member, his retirement allowance, if any,
 3 shall cease being paid to him until he again becomes an
 4 inactive member.

5 NEW SECTION. Section 17. Termination of employment
 6 prior to retirement. (1) Except as provided in subsection
 7 (2), an active member shall MAY withdraw the amount of his
 8 member contributions, plus regular interest as determined by
 9 the board, in lieu of all other benefits under the plan upon
 10 his termination of employment prior to his retirement. If an
 11 active member's employment terminates by reason of his
 12 death, his beneficiaries are entitled to the benefits
 13 prescribed in [section 44].

14 (2) If a member has 10 years or more of creditable
 15 service before termination, he may keep his contributions on
 16 deposit and be eligible for a service retirement at age 50.

17 NEW SECTION. Section 18. Cessation of membership. A
 18 member shall cease to be a member upon the occurrence of the
 19 earlier of the following:

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

22 (2) the date of his death.

23 NEW SECTION. Section 19. Credited service to be
 24 cumulative. A member is entitled to benefits upon the entire
 25 period of his credited service without regard to the number

1 of employers by whom he was employed or the number of
 2 periods of his employment so that no duplication of credited
 3 service occurs.

4 NEW SECTION. Section 20. Military service. (1) A
 5 firefighter inducted into the armed forces of the United
 6 States may:

7 (a) continue his payments into the account during his
 8 military service; or

9 (b) within 2 years after his return to active
 10 firefighter status, contribute to the account an amount
 11 equal to the membership contributions that he would have
 12 made had he been a firefighter during the time of his
 13 military service.

14 (2) If a member chooses one of the options in
 15 subsection (1) and meets its requirements, he shall receive
 16 credit for his service in the armed forces of the United
 17 States as if it were service as a firefighter.

18 NEW SECTION. Section 21. Election to qualify previous
 19 military service. (1) A member with 15 years or more of
 20 service may, at any time prior to his retirement, make a
 21 written election with the board to qualify all or any
 22 portion of his active service in the armed forces of the
 23 United States for the purpose of calculating retirement
 24 benefits, up to a maximum of 5 years, if he is not otherwise
 25 eligible to receive credit. To qualify this service he must

1 contribute to the account the actuarial cost of granting the
 2 service to be determined by the board based on his
 3 compensation and normal contribution rate as of his 16th
 4 year and as many succeeding years as are required to qualify
 5 this service, with interest from the date he becomes
 6 eligible for this benefit to the date he contributes. He may
 7 not qualify more of his military service than he has service
 8 in excess of 15 years. Military service purchased under this
 9 section may not be used in determining eligibility for a
 10 service retirement requiring a minimum of 10 years of
 11 service.

12 (2) If a member has retired from active duty in the
 13 armed forces of the United States with normal service
 14 retirement benefits, he may not qualify his military service
 15 under subsection (1). However, a member who is serving or
 16 has served in the military reserves with the expectation of
 17 receiving a military service pension may qualify his active
 18 military service under subsection (1) if his active duty in
 19 the armed forces of the United States is not more than 25%
 20 of the total of all his years of military service, including
 21 reserve and active duty time.

22 NEW SECTION. Section 22. Retirement account.
 23 Beginning July 1, 1981, an account in the agency fund shall
 24 be maintained on behalf of the plan. The state treasurer is
 25 the custodian of the account subject to the exclusive

1 administrative control of the board.

2 NEW SECTION. Section 23. Management of funds by
 3 department of administration. Except as otherwise provided
 4 in [sections 1 through 53 52], the department of
 5 administration, through the administrator and the board of
 6 investments, shall administer, invest, account for, and
 7 treat the funds deposited with it under [sections 1 through
 8 53 52] according to the rules addressing the public
 9 employees' retirement system, insofar as these rules are not
 10 inconsistent with those promulgated and adopted by the
 11 board. The contributions of the state, employers, and
 12 members paid to the administrator under [sections 1 through
 13 53 52] may be commingled for investment purposes.

14 NEW SECTION. Section 24. Unfunded liabilities. (1)
 15 The legislature finds and declares that many cities
 16 operating under prior plans have excess and unfunded
 17 liabilities, and the liabilities cannot be amortized by the
 18 percentage contributions set forth in [sections 1 through 53
 19 52].

20 (2) The administrator shall, on or before October 1,
 21 1984, determine the excess and unfunded liability of each
 22 city participating in the plan created by [sections 1
 23 through 53 52]. The determination must be negotiated between
 24 each city and the administrator. Each city determined by the
 25 administrator to have an excess and unfunded liability under

1 a prior plan that, as of July 1, 1984, is not funded by sums
 2 on deposit or funds available for deposit with the
 3 administrator shall pay an additional sum over a period of
 4 time to amortize its excess liability as determined by
 5 agreement between the city and the administrator.

6 (3) Each city determined by the administrator to be
 7 paying an amount in excess of the amount necessary to
 8 amortize its liabilities under the prior plan and under
 9 [sections 1 through 53 52] shall receive a credit in the
 10 accounts of the administrator for the excess payments.

11 (4) For each city with an unfunded liability, any
 12 portion of the member, employer, and state contributions
 13 that exceeds the amount necessary to maintain the current
 14 level of unfunded liability must be applied to the reduction
 15 of the unfunded liability.

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

1 actuaries or of any organization considered by the board to
 2 have similar standards.

3 NEW SECTION. Section 26. Transfer of dormant member
 4 account. The board may, in its discretion, transfer member
 5 contributions to the employer's account if the member's
 6 contribution account has been dormant for a period of 10
 7 years. No right of the member may be jeopardized by such a
 8 transfer, and the member contributions shall be transferred
 9 back to the member's name upon his subsequent reinstatement
 10 as an active member.

11 NEW SECTION. Section 27. Member contributions. The
 12 treasurer--or--other--appropriate--officer--of--each EACH
 13 employer shall retain from the monthly compensation of each
 14 active member a sum equal to 7% of his monthly compensation
 15 for his services as a firefighter--the--monthly--deduction
 16 from--the--salaries--of--firefighters--shall--be--paid--to--the
 17 administrator--for--the--purpose--of--paying--the--retirement
 18 allowances--of--retired--firefighters--and--to--defray--expenses--of
 19 the--Montana--state--firemen's--association--as--provided--in
 20 Section 407 AND SHALL REPORT AND REMIT ON A MONTHLY BASIS:

21 (1) 6% OF THE MONTHLY COMPENSATION OF EACH MEMBER TO
 22 THE ADMINISTRATOR FOR DEPOSIT IN THE FUND; AND
 23 (2) 1% OF THE MONTHLY COMPENSATION OF EACH MEMBER TO
 24 THE MONTANA STATE FIREMEN'S ASSOCIATION FOR THE PAYMENT OF
 25 PREMIUMS ON A GROUP LIFE AND ACCIDENTAL DEATH AND

1 DISMEMBERMENT INSURANCE POLICY FOR MEMBERS AND TO DEFRAY
 2 EXPENSES INCURRED BY THE ASSOCIATION WHEN REPRESENTING
 3 MEMBERS OF THE PLAN.

4 NEW SECTION. Section 28. Vesting and withdrawal of
 5 contributions. A member is at all times fully vested in the
 6 deductions PAID TO THE ADMINISTRATOR AND made from his
 7 compensation as a member or as a member of a prior plan
 8 standing to his credit and may, at his discretion, withdraw
 9 the full amount of these deductions upon his termination of
 10 employment in accordance with [section 17] and forfeit all
 11 rights and interest with respect to any benefits that would
 12 otherwise become payable under the plan.

13 NEW SECTION. Section 29. Redeposit of amounts
 14 withdrawn upon reinstatement. (1) Upon reinstatement to
 15 active membership, a member may redeposit in the fund, in
 16 one lump sum or in installments not to exceed 12 monthly or
 17 24 semimonthly installments, an amount equal to the member
 18 contributions that he withdrew plus an amount equal to the
 19 interest that would have been credited to his account had he
 20 not withdrawn his member contributions. If a member makes
 21 such a redeposit, his credited service shall be reinstated.

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

1 NEW SECTION. Section 30. State contribution. The
 2 state shall make its contributions through the state auditor
 3 from the premium taxes on the insurance risks enumerated in
 4 19-11-512. These payments shall be made annually to the
 5 administrator after the end of each fiscal year but no later
 6 than September 1 from the gross premium taxes after
 7 deduction for cancellations and returned premiums. The
 8 administrator shall notify the auditor of the annual
 9 compensation, excluding overtime, holiday payments, shift
 10 differential payments, compensatory time payments, and
 11 payments in lieu of sick leave, paid to all active members
 12 during the preceding year, and EFFECTIVE JULY 1, 1981, the
 13 state's contribution is 10% 12% of this compensation. THIS
 14 CONTRIBUTION SHALL INCREASE TO 15% EFFECTIVE JULY 1, 1982,
 15 AND TO 18% EFFECTIVE JULY 1, 1983. As soon as practicable
 16 after receipt of the state contribution, the administrator
 17 shall deposit it with the state treasurer.

18 NEW SECTION. Section 31. Employer contribution. Each
 19 employer shall make its contribution on behalf of members
 20 through the city treasurer or other appropriate official
 21 from money available to the city for this purpose. Effective
 22 July 1, 1981, the employer's contribution is 12% of the
 23 total monthly compensation paid to all active members during
 24 the preceding month. This contribution shall increase to 15%
 25 effective July 1, 1982, and to 18% effective July 1, 1983.

1 All contributions are payable monthly to the administrator
 2 who shall, as soon as practicable after their receipt,
 3 deposit them with the state treasurer.

4 NEW SECTION. Section 32. Taxing authority of
 5 employers. (1) For the purpose of making contributions
 6 required of a city under [sections 1 through 53 52],
 7 whenever the demand for deposits of such contributions
 8 cannot be met within the general taxing authority and other
 9 revenues available to the city for that purpose, the
 10 appropriate authority of the city may levy any additional
 11 tax authorized by law until the general taxing authority and
 12 other revenue available for that purpose is sufficient to
 13 meet the demand.

14 (2) "General taxing authority", as used in this
 15 section, means that levy which the city may make under the
 16 all-purpose levy or under multiple-purpose levies, if the
 17 city is using multiple-purpose levies.

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

21 NEW SECTION. Section 33. Other money credited as
 22 employer contributions. All gifts, bequests, and emoluments
 23 given to an employer or member for the benefit of the plan
 24 or because of any member's service as a firefighter, except
 25 when specifically allowed to be retained by the member by

1 his employer, shall be paid to the administrator. The
 2 administrator shall credit them to the fund and, as soon as
 3 practicable after their receipt, deposit them with the state
 4 treasurer. Such amounts are employer contributions but are
 5 in addition to the amounts required by [section 31].

6 NEW SECTION. Section 34. Eligibility for service
 7 retirement. The following members are eligible for service
 8 retirement:

9 (1) a member who has reached age 50 and has completed
 10 10 years or more in the aggregate as a firefighter in any
 11 capacity or rank;

12 (2) a member who has reached mandatory retirement age
 13 under [section 35] regardless of his number of years of
 14 service.

15 NEW SECTION. Section 35. Mandatory retirement. (1) An
 16 active member must retire on the first day of the month
 17 coinciding with or immediately following, if none coincides,
 18 the date on which he reaches age 65.

19 (2) A member who reaches mandatory retirement age may
 20 not be allowed creditable service for services rendered
 21 after the mandatory retirement date or contribute to the
 22 retirement system after this date.

23 NEW SECTION. Section 36. Application for service
 24 retirement. On or after a member's minimum retirement date
 25 and prior to his mandatory retirement date, he may retire on

1 a service retirement allowance by making written application
 2 to the employer. The employer shall forward the application
 3 to the board not less than 30 days or more than 90 days
 4 before the elected retirement date. The application shall
 5 state the elected retirement date.

6 NEW SECTION. Section 37. Amount of retirement
 7 allowance. (1) (a) A member hired before July 1, 1981, who
 8 is eligible under [subsection (1) of section 34] and who
 9 elects to retire after completing 20 years of service and
 10 reaching age 50 as an active firefighter shall receive a
 11 service retirement allowance equal to one-half the monthly
 12 compensation last received by the member for his service as
 13 an active firefighter. A member who completes more than 20
 14 years of service shall receive an additional 1% of his final
 15 monthly compensation for each year in excess of 20, up to a
 16 maximum of 60% of the monthly compensation last received by
 17 the member.

18 (b) A member hired before July 1, 1981, who is
 19 eligible under [subsection (1) of section 34] and who elects
 20 to retire after completing 10 years or more of service but
 21 has not both completed 20 years of service and reached age
 22 50 as an active firefighter shall receive a service
 23 retirement allowance equal to 2% of the monthly compensation
 24 last received by the member for each year of service up to a
 25 maximum of 60% of his final monthly salary.

1 (i) If the member dies after he is permanently
 2 separated from service and before he both reaches age 50 and
 3 completes 20 years of service as an active firefighter, the
 4 allowance prescribed in subsection (1)(b) must be made to
 5 the surviving spouse beginning on the date the firefighter
 6 would have both reached his 50th birthday and completed 20
 7 years of service as an active firefighter and terminating
 8 upon the surviving spouse's death or remarriage. If there is
 9 no surviving spouse or if the surviving spouse dies or
 10 remarries and if the firefighter leaves one or more
 11 dependent children, the children are entitled to receive the
 12 allowance as long as they remain dependent as defined in
 13 [section 4].

14 (ii) If the firefighter dies after he both reaches age
 15 50 and completes 20 years of service as an active
 16 firefighter, the payments must be made to the surviving
 17 spouse or children as provided in subsection (1)(b)(i).

18 (2) A member hired on or after July 1, 1981, who:

19 (a) is eligible under [subsection (1) of section 34]
 20 shall receive a service retirement allowance equal to 2% of
 21 his final average salary for each year of service up to a
 22 maximum of 30 years of service;

23 (b) is eligible under [subsection (2) of section 34]
 24 shall receive a service retirement allowance equal to
 25 one-half his final average salary;

1 (c) is retired under [subsection (2) of section 34]
 2 and who was theretofore eligible at his option to be retired
 3 under [subsection (1) of section 34] but elected to serve
 4 additional years shall be paid for the additional years over
 5 his original eligibility at the rate prescribed in
 6 subsection (2)(a).

7 NEW SECTION. Section 38. Board's determination of
 8 disability. The board shall determine whether a member has
 9 become totally and permanently disabled. In making this
 10 determination, the board, any board member, or any
 11 authorized representative of the board may order medical
 12 examinations, conduct hearings, administer oaths and
 13 affirmations, take depositions, certify to official acts,
 14 and issue subpoenas to compel the attendance of witnesses
 15 and the production of books, papers, correspondence,
 16 memoranda, and documents considered necessary as evidence in
 17 connection with the claim for disability retirement. The
 18 board shall secure medical service and advice necessary to
 19 carry out the purposes of this section and shall pay
 20 compensation for those medical services and advice.

21 NEW SECTION. Section 39. Eligibility for disability
 22 retirement. If a member is determined by the board to be
 23 totally and permanently disabled, he is entitled to receive
 24 a disability retirement allowance, regardless of the length
 25 of his service, beginning the first day after the date on

1 which he became totally and permanently disabled.

2 NEW SECTION. Section 40. Amount of disability
3 retirement allowance. (1) A member hired before July 1,
4 1981, who is eligible under [section 39]:

5 (a) before completing 20 years of service shall
6 receive a disability retirement allowance equal to one-half
7 the monthly compensation last received by the member for his
8 services as an active firefighter;

9 (b) after completing 20 years or more of service shall
10 receive the disability retirement allowance provided in
11 subsection (1)(a) increased at a rate of 1% for each year in
12 excess of 20, up to a maximum of 60% of the monthly
13 compensation last received by the member.

14 (2) A member hired on or after July 1, 1981, who is
15 eligible under [section 39]:

16 (a) before completing 25 years of service shall
17 receive a disability retirement allowance equal to one-half
18 his final average salary;

19 (b) after completing 25 years or more of service shall
20 receive the disability retirement allowance provided in
21 subsection (2)(a) increased at a rate of 2% for each year in
22 excess of 25, up to a maximum of 5 years of additional
23 service.

24 NEW SECTION. Section 41. Medical examination of
25 disability retiree -- cancellation of allowance. (1) The

1 board in its discretion may require the recipient of a
2 disability retirement allowance to undergo a medical
3 examination at the board's expense. The examination must be
4 made by a physician or surgeon at the recipient's place of
5 residence or at another place mutually agreed on. Based on
6 the results of the examination, the board shall determine
7 whether the recipient has the physical or mental capacity to
8 perform the duties required by his position. If the board
9 determines that the recipient is not incapacitated or if the
10 recipient refuses to submit to a medical examination, his
11 disability retirement allowance shall be canceled. The
12 board shall notify the recipient of this determination and
13 the cancellation of his allowance.

14 (2) The cancellation of a disability allowance because
15 a member is no longer incapacitated does not prejudice any
16 right of the member to a service retirement benefit.

17 NEW SECTION. Section 42. Reinstatement upon
18 termination of allowance. (1) (a) An inactive member whose
19 disability retirement allowance is canceled as provided in
20 [section 41] shall be reinstated to the position held by him
21 immediately before his retirement or to a position in the
22 same classification with duties within his capacity if an
23 appropriate vacancy exists within his fire department. The
24 board shall advise the employer that the disability
25 retirement allowance has been canceled and that the inactive

1 member is eligible for reinstatement to duty. The fact that
 2 he was retired for disability may not prejudice any right to
 3 reinstatement to duty which the inactive member may have or
 4 claim to have.

5 (b) If no appropriate vacancy exists within an
 6 inactive member's fire department when his disability
 7 allowance is canceled under [section 41], his allowance must
 8 be reinstated until a vacancy occurs.

9 (2) The city may request a medical or psychological
 10 review as to the ability of the member to return to work as
 11 a firefighter. If the board's findings are upheld, the city
 12 shall pay the costs of the review.

13 (3) If the inactive member again becomes an active
 14 member by returning to active work for an employer within 30
 15 days following his receipt of notice under [section 41], he
 16 shall be considered to have been continuously employed
 17 during the term of his disability. If the inactive member
 18 fails to become an active member by returning to active work
 19 for an employer within 30 days following receipt of this
 20 notice, his termination of employment shall be considered to
 21 have occurred as of his disability retirement date and the
 22 retirement allowance, if any, to which he becomes entitled
 23 on his service retirement shall be determined accordingly.

24 NEW SECTION. Section 43. Payment of service or
 25 disability allowance upon death of member. A member's

1 service or disability allowance shall be paid first to the
 2 member during his lifetime and, upon his death, to his
 3 surviving spouse as long as such spouse remains unmarried.
 4 If upon a member's death he leaves no surviving spouse, or
 5 upon the death or remarriage of a surviving spouse, his
 6 allowance shall be paid to his dependent children as long as
 7 they remain dependent as defined in [section 4].

8 NEW SECTION. Section 44. Survivorship allowance.
 9 (1) (a) Upon the death before retirement of an active member
 10 hired before July 1, 1981, his surviving spouse, if there is
 11 one, shall, as long as such spouse remains unmarried,
 12 receive a survivorship allowance equal to one-half the
 13 monthly compensation last received by the member for his
 14 service as an active firefighter. If the member leaves one
 15 or more dependent children, then, upon his death if he
 16 leaves no surviving spouse or upon the death or remarriage
 17 of the surviving spouse, his dependent children shall
 18 collectively receive the same allowance that a surviving
 19 spouse would have received as long as the children remain
 20 dependent as defined in [section 4].

21 (b) If the deceased member completed over 20 years of
 22 service, the survivorship allowance provided in subsection
 23 (1)(a) must be increased at a rate of 1% for each year in
 24 excess of 20, up to a maximum of 60% of the monthly
 25 compensation last received by the member.

1 (2) Upon the death before retirement of a member hired
 2 on or after July 1, 1981, his surviving spouse, if there is
 3 one, shall, as long as such spouse remains unmarried,
 4 receive a survivorship allowance equal to one-half of the
 5 member's final average salary. If the firefighter leaves one
 6 or more dependent children, then, upon his death if he
 7 leaves no surviving spouse or upon the death or remarriage
 8 of the surviving spouse, his dependent children shall
 9 collectively receive the same allowance that a surviving
 10 spouse would have received, as long as the children remain
 11 dependent as defined in [section 4].

12 NEW SECTION. Section 45. Payment of death benefits in
 13 absence of spouse or child. If a member dies without leaving
 14 a surviving spouse or children, the administrator shall
 15 compute the total contributions made to the fund by the
 16 deceased member, and if the deceased member had designated a
 17 beneficiary in writing to the administrator, the
 18 administrator shall issue a warrant for the amount of the
 19 total contributions payable to that beneficiary. If the
 20 deceased member had not nominated a beneficiary, the
 21 contributions shall be paid to his estate.

22 NEW SECTION. Section 46. Allowance adjustment. (1)
 23 For a member hired on or after July 1, 1973, but before July
 24 1, 1981, and his surviving spouse or dependent children, the
 25 service retirement allowance provided in [subsection (1)(a)

1 of section 37], the disability retirement allowance provided
 2 in [subsection (1) of section 40], and the survivorship
 3 allowance provided in [subsection (1) of section 44] may not
 4 be less than one-half the monthly compensation paid to a
 5 newly confirmed, active firefighter of a city that last
 6 employed him as a firefighter, as provided each year in the
 7 budget of that city.

8 (2) FOR A MEMBER HIRED ON OR AFTER JULY 1, 1981, AND
 9 HIS SURVIVING SPOUSE OR DEPENDENT CHILDREN, THE DISABILITY
 10 RETIREMENT ALLOWANCE PROVIDED IN [SUBSECTION (2) OF SECTION
 11 40] AND THE SURVIVORSHIP ALLOWANCE PROVIDED IN [SUBSECTION
 12 (2) OF SECTION 44] MAY NOT BE LESS THAN ONE-HALF THE MONTHLY
 13 COMPENSATION PAID TO A NEWLY CONFIRMED, ACTIVE FIREFIGHTER
 14 OF A CITY THAT LAST EMPLOYED HIM AS A FIREFIGHTER, AS
 15 PROVIDED EACH YEAR IN THE BUDGET OF THAT CITY.

16 NEW SECTION. Section 47. Retirement allowances to be
 17 monthly and fixed. The retirement allowances granted under
 18 the provisions of [sections 1 through 53 52] shall be paid
 19 in monthly installments and may not be increased or
 20 decreased, except as specifically provided in [sections 1
 21 through 53 52].

22 NEW SECTION. Section 48. Correction of erroneous
 23 payments. If any change in records fraudulently made or any
 24 mistake in records inadvertently made results in any member,
 25 survivor, or beneficiary receiving more or less than he was

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

4 NEW SECTION. Section 49. Exemption from taxes. Any
 5 money received as a retirement allowance in accordance with
 6 the provisions of [sections 1 through 53 52] is exempt from
 7 any state or municipal tax.

8 NEW SECTION. Section 50. Protection from legal
 9 process -- unassignability. The benefits payable under
 10 [sections 1 through 53 52] are not subject to the claims of
 11 any creditor of a member, beneficiary, or survivor or to
 12 attachment, garnishment, or other legal or equitable
 13 process. No member, beneficiary, or survivor may alienate,
 14 anticipate, commute, pledge, encumber, assign, or sell any
 15 of such benefits.

16 NEW SECTION. Section 51--Payment-----of-----insurance
 17 premiums--The board shall annually authorize an expenditure
 18 from the fund to the Montana State Firemen's Association for
 19 the payment of premiums on a group life and accidental death
 20 and dismemberment insurance policy for members. This payment
 21 may not exceed 4/5 of 1% of the annual compensation,
 22 excluding overtime, holiday payments, shift differential
 23 payments, compensatory time payments, and payments in lieu
 24 of sick leave paid to all active members during the
 25 preceding year.

1 NEW SECTION. Section 51. Withholding of group
 2 insurance premium from retirement benefit. A retiree who is
 3 a participant in an employee group insurance plan that
 4 permits participation in the group plan following retirement
 5 may elect to have the monthly premium for such group
 6 insurance withheld by the administrator and paid directly by
 7 the administrator to the insurance carrier. To qualify for
 8 this withholding, a retiree must be a participant in a group
 9 insurance plan available to the employees of his former
 10 employer. No withholding may be made for any retiree covered
 11 by an individual insurance policy.

12 NEW SECTION. Section 52. Supplement to certain
 13 retirement allowances. The plan shall pay to each
 14 firefighter retired before July 1, 1973, or his surviving
 15 spouse and children a monthly retirement allowance of not
 16 less than one-half the regular monthly salary paid to a
 17 confirmed active firefighter of the city that last employed
 18 him as a firefighter, as provided each year in the budget of
 19 that city. In the case of volunteer firefighters, the
 20 retirement allowance may not exceed \$75 per month.
 21 Distribution of the funds provided for this purpose under
 22 19-11-606(1) shall be made as follows:

23 (1) At the beginning of each fiscal year the
 24 administrator shall request and the state auditor shall
 25 issue from the earmarked revenue fund and deliver to the

1 administrator an amount certified to be equal to the total
 2 annual dollar difference between what the retirees or their
 3 surviving spouses and children received from the fund and
 4 one-half of the salary paid by the respective city or town
 5 to a confirmed active firefighter for the fiscal year just
 6 preceding.

7 (2) The administrator shall use the funds to increase
 8 the monthly retirement allowances of the retirees or their
 9 surviving spouses and children to an amount equal to
 10 one-half of the salary that was paid to a confirmed active
 11 firefighter in the respective city or town for the preceding
 12 year.

13 Section 53. Section 19-9-1007, MCA, is amended to
 14 read:

15 "19-9-1007. Supplement to certain pensions. (1) The
 16 payment for each fiscal year to the police officers,
 17 spouses, or minor children described in subsections (2)(a)
 18 through (2)(c) may be not less than one-half of the base
 19 salary paid in the previous calendar year in the appropriate
 20 city or town to newly confirmed police officers, except that
 21 for the fiscal year beginning July 1, 1979, all retirees and
 22 their beneficiaries who received a supplement to their
 23 retirement allowance on July 1, 1978, and are receiving an
 24 allowance on July 1, 1979, shall receive a 3% increase in
 25 their retirement allowance in lieu of any other increase.

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

4 (a) the names of all police officers who are receiving
 5 payments from the plan as of the date of the report and were
 6 receiving payments from a prior plan before July 1, 1975;

7 (b) the names of all spouses or minor children who are
 8 receiving payments from the plan because of the death of a
 9 police officer who was receiving payments from a prior plan
 10 before July 1, 1975;

11 (c) the names of all spouses or minor children who are
 12 receiving payments from the plan and who were receiving
 13 payments from a prior plan before July 1, 1975, or in the
 14 case of minor children, whose parent, the spouse of a police
 15 officer, was receiving payments from a prior plan before
 16 July 1, 1975;

17 (d) for the purpose of determining the base figure for
 18 the computations set forth in subsection (3), the following
 19 information relating to the base fiscal year commencing July
 20 1, 1976:

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

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

1 (iii) upon the death after April 18, 1977, of any
 2 police officer on the retired list who was receiving
 3 payments from a prior plan before July 1, 1975, and who is
 4 survived by a spouse or minor children entitled to receive
 5 payments from the plan, the amount which would have been
 6 paid to an eligible spouse of such police officer had that
 7 spouse been receiving payments in the base fiscal year;

8 (e) the base salary for the previous calendar year of
 9 a newly confirmed police officer of each city or town
 10 participating in the plan.

11 (3) The state auditor shall, upon receipt of the
 12 report referred to in subsection (2), compute the difference
 13 between each amount reported under subsections (2)(d)(i)
 14 through (2)(d)(iii) and one-half the base salary for the
 15 previous calendar year of a newly confirmed police officer
 16 of the appropriate city or town. The difference shall be
 17 paid by the state auditor out of the premium tax collected
 18 on insurance sold in this state to insure against the risks
 19 enumerated in 19-11-512~~(5)~~(3) to the administrator no later
 20 than May 31 of each year. This payment is in addition to the
 21 payment to be made by the state auditor under 19-9-702. The
 22 administrator shall use the funds received under this
 23 subsection to supplement the monthly payments to persons
 24 described in subsections (2)(a) through (2)(c) so that the
 25 requirements of subsection (1) are met.

1 (4) In addition to the payments made by the auditor as
 2 provided in subsection (3), the auditor shall make annual
 3 payments of \$100,000 on or before June 30 of each year until
 4 the sum of \$500,000 has been paid to the administrator for
 5 deposit in the retirement account. These payments are to be
 6 made to reimburse the retirement account for funds advanced
 7 to implement this section.

8 (5) If more than one minor child is entitled to
 9 supplementary payments under this section by virtue of the
 10 death of a common parent police officer, the minimum payment
 11 to such minor children under this section shall be
 12 determined as if there were one such minor child and the
 13 supplementary payment shall be made to the minor children
 14 collectively."

15 Section 54. Section 19-11-401, MCA, is amended to
 16 read:

17 "19-11-401. Management of association. The management
 18 of the fire department relief associations in-municipalities
 19 other-than-first--and-second-class-cities is vested in the
 20 boards of trustees, except as provided in 19-11-402 and
 21 19-11-403."

22 Section 55. Section 19-11-403, MCA, is amended to
 23 read:

24 "19-11-403. Investment of fund by board of
 25 investments. ~~(1)~~ When Whenever the average yield on

1 investments of public retirement funds under the board of
 2 investments exceeds by 1% in any fiscal year the average
 3 yield on investments of the fund made pursuant to 19-11-402,
 4 the surplus money in the fund shall be remitted to the state
 5 treasurer for investment by under the direction of the board
 6 of investments as is provided in ~~19-11-302~~ for associations
 7 in first--and--second--class--cities ~~17-6-204~~. The department
 8 of community affairs shall advise the association of the
 9 current yield on investments of public retirement funds.

10 (2) As used in subsection (1), "surplus money" means
 11 the excess over the greater of the following:

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

14 (b) \$5,000."

15 Section 56. Section 19-11-504, MCA, is amended to
 16 read:

17 "19-11-504. Amount of special tax levy. (t) Whenever
 18 the total amount of the fund is less than 2% of the taxable
 19 valuation of all taxable property within the limits of the
 20 city or town, the special tax levy shall be
 21 not less than 1 mill or more than 4 mills on each
 22 dollar of taxable valuation of all taxable property within
 23 the limits of the city or town; and
 24 (b) an amount sufficient to provide a growth per year
 25 in the fund considering all sources of income to the fund

1 and the payment of obligations out of the fund equal to the
 2 sum produced by 1 mill levied on the taxable valuation of
 3 all the taxable property in the city or town.
 4 (2) The special tax levy shall be a fractional part of
 5 1 mill whenever
 6 the total amount of the fund is less than 2% but
 7 more than 1% of the taxable valuation of all taxable
 8 property within the city or town; and
 9 (b) the special tax levy of a fractional part of 1
 10 mill will produce sufficient revenue to cause the fund
 11 considering all sources of income to the fund and all
 12 payments to be made out of the fund to exceed 2% of the
 13 taxable valuation of all taxable property within the city or
 14 town.

15 (3) In cities of the third class when Whenever the
 16 fund contains an amount which is less than 2% of the taxable
 17 valuation of all taxable property in the city or town, the
 18 city council shall levy an annual special tax of not less
 19 than 1 mill and not more than 4 mills on each dollar of
 20 taxable valuation of all taxable property within the city or
 21 town."

22 Section 57. Section 19-11-512, MCA, is amended to
 23 read:

24 "19-11-512. State auditor to pay association out of
 25 insurance premium taxes. (t) At the end of the fiscal year,

1 the state auditor shall issue and deliver the payment
 2 described in this subsection to the board of investments to
 3 be credited to the account of each fire department relief
 4 association of any city or town of the first or second class
 5 which has a fire department relief association entitled by
 6 law to receive payments. The state auditor shall at the
 7 same time report to the treasurer of the association the
 8 amount of the payment. The payment shall be for the use and
 9 benefit of the association. It shall be paid out of the
 10 premium taxes on insurance risks enumerated in subsection
 11 67 collected by the state auditor and shall be equal to 10%
 12 of the total annual compensation paid by the city or town to
 13 its paid or part paid firefighters for services in the
 14 previous calendar year. The city clerk of the city or town
 15 shall certify in writing to the state auditor on or before
 16 April 1 of each year the amount paid by the city or town as
 17 compensation for services to paid or part paid firefighters.
 18 ~~(2)~~ When there is a disaster resulting in death or
 19 injury sufficient to draw the pensions of 10% of the active
 20 force and the fund after receiving all moneys provided for
 21 in 19-11-504-19-11-503-19-11-504 and subsection 11 of
 22 this section does not show at least the 1 mill growth
 23 referred to in 19-11-504, the treasurer of the association
 24 shall request and the state auditor shall issue and deliver
 25 an additional payment under the same conditions described in

1 subsection 11. The payment shall be in an amount sufficient
 2 to cause at least the above mentioned 1 mill growth in the
 3 fund.
 4 ~~(3)~~ If a city is not entitled to receive a sum equal
 5 to 1 1/2 mills of its total taxable value under subsections
 6 11 and 12, the payment shall be made in the amount
 7 provided in subsections 14 and 15 for cities of the third
 8 class and in the manner described in subsection 11.
 9 ~~(4)~~ At the end of the fiscal year, the state
 10 auditor shall issue and deliver the warrant described in
 11 this subsection to the treasurer of every city or town
 12 except cities and towns of the first or second class which
 13 has a fire department relief association entitled by law to
 14 receive payments. The warrant shall be for the use and
 15 benefit of the association. It shall be for an amount equal
 16 to 1 1/2 mills of the total taxable value of the city or
 17 town and shall be paid out of the premium taxes on insurance
 18 risks enumerated in subsection 67 ~~(3)~~ collected by the
 19 state auditor.
 20 ~~(5)~~ If the payment provided for in subsection 14
 21 ~~(1)~~ is less than \$100, an additional payment shall be made
 22 from the same tax moneys so that the total amount received
 23 is \$100.
 24 ~~(6)~~ The risks referred to in subsection subsection
 25 ~~(1)~~ and ~~(4)~~ are:

1 (a) insurance of houses, buildings, and all other
 2 kinds of property against loss or damage by fire or other
 3 casualty;

4 (b) all kinds of insurance on goods, merchandise, or
 5 other property in the course of transportation, whether by
 6 land, water, or air;

7 (c) insurance against loss or damage to motor vehicles
 8 resulting from accident, collision, or marine and inland
 9 navigation and transportation perils;

10 (d) insurance of growing crops against loss or damage
 11 resulting from hail or the elements;

12 (e) insurance against loss or damage by water to any
 13 goods or premises arising from the breakage or leakage of
 14 sprinklers, pumps, or other apparatus;

15 (f) insurance against loss or legal liability for loss
 16 because of damage to property caused by the use of teams or
 17 vehicles, whether by accident or collision or by explosion
 18 of any engine, tank, boiler, pipe, or tire of any vehicle;
 19 and

20 (g) insurance against theft of the whole or any part
 21 of any vehicle."

22 Section 58. Section 19-11-513, MCA, is amended to
 23 read:

24 "19-11-513. Transfer of premium taxes to state
 25 treasury. The state auditor shall estimate the portion of

1 premium taxes needed to make the payments required by this
 2 chapter and shall pay an amount equal to the estimate into
 3 the state treasury, to the credit of the earmarked revenue
 4 fund. ~~The--state--auditor--shall--pay--the--actuary--fee-as~~
 5 ~~required-by-19-11-303.~~ Any balances remaining after such
 6 payments have been ordered shall be transferred to the
 7 general fund."

8 Section 59. Section 19-11-514, MCA, is amended to
 9 read:

10 "19-11-514. State treasurer to pay warrants. The state
 11 treasurer is hereby authorized and directed, upon the
 12 presentation to him of a warrant drawn pursuant to this
 13 chapter, to pay:

14 ~~(1) in the case of a municipality other than a city of~~
 15 ~~the--first--or--second--class.~~ to the treasurer of the city or
 16 town, out of moneys in the earmarked revenue fund dedicated
 17 for such purpose, the amount of such warrant specified,
 18 which amount shall be paid by said city treasurer to said
 19 fire department relief association;

20 ~~(2) in the case of a city of the first or second~~
 21 ~~class, to the board of investments to be credited to the~~
 22 ~~account of the fire department relief association, out of~~
 23 ~~the money in the earmarked revenue fund dedicated for such~~
 24 ~~purpose the amount of the warrant.~~"

25 Section 60. Section 19-11-606, MCA, is amended to

1 read:

2 "19-11-606. Supplement to certain pensions. (1) In
 3 addition to the taxes on premiums required by law to be paid
 4 by each insurer doing business in this state that is
 5 authorized to effect insurance on risks enumerated in
 6 19-11-512, there is a tax of 1 1/2% on the fire portion of
 7 the direct premiums received during the calendar year of
 8 1975 and each succeeding year, with allowance for
 9 cancellations and returned premiums. The insurance
 10 commissioner shall collect the tax during March of each year
 11 and deposit the moneys in the earmarked revenue fund. The
 12 auditor shall pay claims as provided in subsection (2) of
 13 this section and [section 53 52]. As those persons who are
 14 to receive the fund die, the tax shall be reduced
 15 proportionately, and when no eligible person, as defined by
 16 subsection (2) and [section 53 52], survives, the tax
 17 terminates and the remaining fund, if any, shall be
 18 transferred to the general fund.

19 (2) Effective January 1, 1976, each association shall
 20 pay to the firefighters retired before July 1, 1973, or
 21 their surviving spouses and children a monthly pension of
 22 not less than one-half the regular monthly salary paid to a
 23 confirmed active firefighter of that city, as provided each
 24 year in the budget of that city. In the case of volunteer
 25 firefighters, the pension may not exceed \$75 per month.

1 **Distribution of the funds provided for this purpose under**
 2 **subsection (1) shall be made as follows:**

3 (a) At the beginning of each fiscal year the treasurer
 4 of each association shall request and the state auditor
 5 shall issue from the earmarked revenue fund and delivery-in
 6 the-case-of-a-municipality-other-than-a-city-of-the-first-or
 7 second-class to the treasurer of the respective city or
 8 town or-in-the-case-of-a-city-of-the-first-or-second-class
 9 to-the-board-of-investments-to-be-credited-to-the-account-of
 10 the--fire--department-relief-association an amount certified
 11 to be equal to the total annual dollar difference between
 12 what the retirees or their surviving spouses and children
 13 received from the fund and one-half of the salary paid by
 14 the respective city or town to a confirmed active
 15 firefighter for the fiscal year just preceding. The state
 16 auditor shall, at the same time, report to the treasurer of
 17 the appropriate association the amount of any payment
 18 delivered to the board of investments.

19 (b) The treasurer of a city or town receiving funds
 20 shall immediately disburse them to the treasurer of the
 21 respective association.

22 (c) The treasurer of the association shall utilize
 23 these funds to increase the monthly pension of retirees or
 24 their surviving spouses and children to an amount equal to
 25 one-half of the salary that was paid to a confirmed active

1 firefighter in the city or town for the preceding year."

2 Section 61. Section 19-12-301, MCA, is amended to
3 read:

4 "19-12-301. Fire insurance premium tax to be paid into
5 fund. The state auditor and ex officio commissioner of
6 insurance shall annually deposit in the volunteer
7 firefighters' fund a sum equivalent to 5% of the premium
8 taxes collected from insurers authorized to effect insurance
9 against risks enumerated in 19-11-512, computed after the
10 amounts provided for by section 30 and 19-11-512 have
11 first been deducted. The moneys shall be used for the
12 payment of claims and administrative costs as provided in
13 this chapter."

14 Section 62. Repealer. Sections 19-11-301 through
15 19-11-303, MCA, are repealed.

16 Section 63. Effective date. (1) Section 6 is effective
17 on passage and approval.

18 (2) Sections 1 through 63 62, except for section 6,
19 are effective on July 1, 1981.

-End-

HOUSE BILL NO. 674

INTRODUCED BY FABREGA, NILSON, DUSSAULT,
VINCENT, R. MANNING, LEE, GOULD, P. RYAN

5 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A
6 FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM AND PROVIDING FOR
7 ITS ADMINISTRATION; AMENDING SECTIONS 19-9-1007, 19-11-401,
8 19-11-403, 19-11-504, 19-11-512, THROUGH 19-11-514,
9 19-11-606, and 19-12-301, MCA; REPEALING SECTIONS 19-11-301
10 THROUGH 19-11-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
11 DATE DATES."

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

Refer to Introduced Bill

15 (Strike everything after the enacting clause and insert:)
16 NEW SECTION. Section 1. Short title. [Sections 1
17 through 53 52] may be cited as the "Montana Firefighters'
18 Unified Retirement Act".

19 NEW SECTION. Section 2. Purpose -- application of
20 prior law. (1) Because cities other than those of the first
21 or second class currently have fire department relief
22 associations, the legislature finds and declares that the
23 law regarding these associations cannot be repealed. It is
24 the express intention of the legislature to allow two
25 separate and distinct retirement systems to exist. The

1 first, which includes fire department relief associations,
2 applies to cities other than those of the first or second
3 class that wish to adopt it. The second, created by
4 [sections 1 through 53 52], applies to cities of the first
5 or second class and those other cities that wish to adopt
6 it. The purpose of the second system is to provide equity
7 and security for retired firefighters who served cities of
8 the first and second class and other cities electing to join
9 the plan by creating a centrally administered system
10 responsible for continuing all retirement payments from the
11 assets of the system.

12 (2) Title 19, chapter 11, may not be applied in any
13 way to a city operating under the plan created by [sections
14 1 through 53 52] except as otherwise provided.

19 NEW SECTION. Section 4. Definitions. Unless the
20 context requires otherwise, the following definitions apply
21 in [sections 1 through 53, 52]:

22 (1) "Administrator" means the public employees'
23 retirement division of the department of administration.

24 {2} "Board" means the retirement board described in
25 2-15-1009.

There are no changes in HB674, and due to length will not be rerun. Please refer to yellow copy for complete text.

1 **STATEMENT OF INTENT**2 **HOUSE BILL 674**3 **House Committee on State Administration**

4

5 A statement of intent is required for this bill in that
6 it delegates rulemaking authority to the Public Employees'
7 Retirement Board for the proper administration of the
8 Montana Firefighters' Unified Retirement System.

9 It is contemplated that the rules will address the
10 following:

11 (1) interpretation and enforcement of the provisions
12 of this act;

13 (2) establishment of uniform rules to administer the
14 provisions of this act;

15 (3) determination of conditions under which a person
16 may become a member and receive benefits under the
17 retirement system;

18 (4) determination of retirement disability and
19 survivorship allowances under the provisions of this act;

20 (5) establishment of policy for the maintenance of
21 records and accounts for administering the retirement
22 system;

23 (6) selection procedures for contracting with a
24 qualified actuary to conduct actuarial valuation of the
25 system.

1 HOUSE BILL NO. 674
2 INTRODUCED BY FABREGA, NILSON, DUSSAULT,
3 VINCENT, R. MANNING, LEE, GOULD, P. RYAN

5 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A
6 FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM AND PROVIDING FOR
7 ITS ADMINISTRATION; AMENDING SECTIONS 19-9-1007, 19-11-401,
8 19-11-403, 19-11-504, 19-11-512, THROUGH 19-11-514,
9 19-11-606, and 19-12-301, MCA; REPEALING SECTIONS 19-11-301
10 THROUGH 19-11-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
11 DATE DATES."

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

Refer to Introduced Bill

15 {Strike everything after the enacting clause and insert:}
16 NEW SECTION. Section 1. Short title. [Sections
17 through 53 52] may be cited as the "Montana Firefighter
18 Unified Retirement Act".

19 NEW SECTION. Section 2. Purpose -- application of
20 prior law. (1) Because cities other than those of the first
21 or second class currently have fire department relief
22 associations, the legislature finds and declares that the
23 law regarding these associations cannot be repealed. It is
24 the express intention of the legislature to allow two
25 separate and distinct retirement systems to exist. The

1 first, which includes fire department relief associations,
2 applies to cities other than those of the first or second
3 class that wish to adopt it. The second, created by
4 [sections 1 through 53 52], applies to cities of the first
5 or second class and those other cities that wish to adopt
6 it. The purpose of the second system is to provide equity
7 and security for retired firefighters who served cities of
8 the first and second class and other cities electing to join
9 the plan by creating a centrally administered system
10 responsible for continuing all retirement payments from the
11 assets of the system.

12 (2) Title 19, chapter 11, may not be applied in any
13 way to a city operating under the plan created by [sections
14 1 through 53 52] except as otherwise provided.

19 NEW SECTION. Section 4. Definitions. Unless the
20 context requires otherwise, the following definitions apply
21 in [sections 1 through 53 52]:

22 (1) "Administrator" means the public employees*
23 retirement division of the department of administration.

24 (2) "Board" means the retirement board described in
25 2-15-1009.

1 (3) "Credited service" means the aggregate of a
2 member's prior service and membership service.

3 (4) "Dependent child" means a child of a deceased
4 member who is:

5 (a) unmarried and under age 18; or
6 (b) unmarried, under age 24, and attending an
7 accredited postsecondary educational institution as a
8 full-time student in anticipation of receiving a certificate
9 or degree.

10 (5) "Employer" means any city that is of the first or
11 second class or that elects to join this plan under [section
12 8].

13 (6) "Final average salary" means the monthly
14 compensation of a member hired on or after July 1, 1981,
15 averaged over the last 36 months of his active service or,
16 if he has not been a member that long, over the period of
17 his membership.

18 (7) "Firefighter" means a person employed as a full-
19 or part-paid firefighter by an employer.

20 (8) "Full-paid firefighter" means a person appointed
21 as a firefighter under 7-33-4106.

22 (9) "Fund" means the agency account in the state
23 treasury system designated for the use of the plan.

24 (10) "Member" means a person who is employed by an
25 employer as a full- or part-paid firefighter or who is

1 entitled to a retirement allowance by virtue of his service
2 to an employer as a firefighter.

3 (11) "Member contributions" means the total of the
4 deductions from a member's compensation made during a period
5 of active membership under [sections 1 through 53 52] or
6 made under a prior plan and transferred to this plan,
7 standing to his credit, together with the interest thereon.

8 (12) "Membership service" means a period of employment
9 with an employer occurring after July 1, 1981, during which
10 the withholdings required by [sections 1 through 53 52] have
11 been made from a member's monthly compensation and credited
12 to his member contributions account. Pro rata credit shall
13 be granted for employment on a part-time basis or for
14 employment over a period of less than a complete fiscal
15 year.

16 (13) "Minimum retirement date" means the first day of
17 the month coinciding with or immediately following, if none
18 coincides, the date on which a member becomes both age 50 or
19 older and completes 10 or more years of credited service.

20 (14) "Monthly compensation" means:
21 (a) for a full-paid firefighter, the regular monthly
22 compensation, excluding overtime, holiday payments, shift
23 differential payments, compensatory time payments, and
24 payments in lieu of sick leave, paid by an employer for his
25 service as a firefighter;

1 (b) for a part-paid firefighter employed by a city of
 2 the second class, 15% of the average regular monthly
 3 compensation, excluding overtime, holiday payments, shift
 4 differential payments, compensatory time payments, and
 5 payments in lieu of sick leave, paid to all newly confirmed,
 6 active firefighters employed by cities of the second class
 7 on July 1 of each year.

8 (15) Any reference to "municipality", "city", or "town"
 9 includes those jurisdictions which, prior to the effective
 10 date of a county-municipal consolidation, were incorporated
 11 municipalities, subsequent districts created for urban
 12 firefighting services, or the entire county included in the
 13 county-municipal consolidation.

14 (16) "Part-paid firefighter" means a person employed
 15 under 7-33-4109 who receives compensation in excess of \$300
 16 a year for his service as a firefighter.

17 (17) "Plan" means the municipal firefighters'
 18 retirement system created by [sections 1 through 53 52].

19 (18) "Prior plan" means the fire department relief
 20 association plan of a city that elects to join the plan
 21 under [section 8] or the fire department relief association
 22 plan of a city of the first or second class.

23 (19) "Prior service" means a period of employment as a
 24 firefighter for which credit was granted to a member under a
 25 prior plan and has been transferred to this plan.

1 (20) "Retirement allowance" means the monthly benefit
 2 payable after service or disability retirement.

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

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

11 NEW SECTION. Section 5. Participation in plan by
 12 first- and second-class cities. Cities of the first and
 13 second class that employ full-paid firefighters must
 14 participate in the plan. If a city of the first or second
 15 class is reduced to a city of the third class or a town
 16 under 7-1-4118, it must continue to participate in the plan
 17 as long as it has retired firefighters or beneficiaries
 18 eligible to receive retirement benefits.

19 NEW SECTION. Section 6. Transfer of assets and
 20 liabilities from prior plans. All funds and obligations
 21 constituting the assets and liabilities of prior plans,
 22 regardless of their form or who holds them, must be
 23 transferred to the account provided for in [section 22]. The
 24 board shall determine the amounts to be apportioned to each
 25 account on [the effective date of this section], and the

1 department of administration and the boards of trustees of
 2 the fire department relief associations shall transfer such
 3 amounts to the appropriate accounts on July 1, 1981.

4 NEW SECTION. Section 7. Effect on members of prior
 5 plans. A firefighter hired before July 1, 1981, who was a
 6 member of a prior plan and who becomes a member of this plan
 7 retains all rights and benefits accrued under a prior plan.

8 NEW SECTION. Section 8. Election to join plan --
 9 transfer of assets. (1) Except for cities with only
 10 volunteer firefighters, a city other than one described in
 11 [section 5] may, after July 1, 1981, elect to join the plan
 12 by passing an ordinance stating the election and the consent
 13 of the city to be bound by the provisions of [sections 1
 14 through 53 52]. The fire department relief association of
 15 the city may pass a resolution to the same effect. Upon the
 16 enactment of the ordinance and passage of the resolution,
 17 the provisions of [sections 1 through 53 52] become
 18 applicable to the city. Any city that enacts such an
 19 ordinance and in which the fire department relief
 20 association passes such a resolution shall send certified
 21 copies thereof to the board and shall, as soon as possible
 22 thereafter, deposit with the board all cash and securities
 23 held by its fire department relief association. The value of
 24 the securities shall be determined by the board.

25 (2) The board of trustees of the fire department

1 relief association as of the effective date of the election
 2 shall certify the proportion, if any, of the funds of the
 3 association that represents the accumulated contributions of
 4 the active members and the relative shares of the members as
 5 of that date. Following the transfer of the cash and
 6 securities required by subsection (1) and the certification
 7 required by this subsection, the fire department relief
 8 association may conclude its affairs. The shares of the
 9 members shall be charged to the employer and credited to the
 10 respective individual accounts of the members in the plan
 11 and administered as if the contributions had been made
 12 during membership in the plan. Any excess of employer
 13 credits over charges under this section will be offset, with
 14 interest, against future required employer contributions.
 15 Any excess of employer charges over credits under this
 16 section are payable by the employer, with interest, on a
 17 basis determined by the procedure described in [section 24].

18 NEW SECTION. Section 9. Penalty for fraud. (1) No
 19 person may knowingly make any false statement or permit to
 20 be falsified any records of the plan in an attempt to
 21 defraud the plan.

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

1 months, or both.

2 NEW SECTION. Section 10. Firemen's association to
 3 advise board. ---payment-to-the-association-from-funds---
 4 The Montana state firemen's association shall serve as an
 5 advisor to the board and may meet quarterly with the board
 6 to discuss matters relating to the administration of
 7 [sections 1 through 53 52]. The association may review all
 8 medical and legal information available to the board
 9 relating to service, disability, and survivorship benefits
 10 for members of the plan.

11 t2>--in--June--of--each--year--the--association--shall
 12 receive--annually--from-the-fund--an--amount--equal--to--1/5--of--1/4
 13 of--the--annual--compensation--paid--to--active--members--of--the
 14 plan--to--defray--expenses--incurred--by--the--association--when
 15 representing--members--of--the--plan--

16 NEW SECTION. Section 11. Power and duties of board.
 17 The powers and duties of the board include:

18 (1) administering, interpreting, and enforcing the
 19 provisions of [sections 1 through 53 52];

20 (2) establishing uniform rules to administer the
 21 provisions of [sections 1 through 53 52];

22 (3) determining the conditions under which persons may
 23 become members of and receive benefits under the retirement
 24 system; and

25 (4) determining allowances for retirement and

1 disability under [sections 1 through 53 52].

2 NEW SECTION. Section 12. Department to provide forms
 3 -- information from employers. The department of
 4 administration shall prepare such forms as it finds
 5 necessary for the employers to complete to provide all the
 6 information necessary to administer [sections 1 through 53
 7 52], and the cities shall give the department of
 8 administration all data necessary to carry out the purpose
 9 and intent of [sections 1 through 53 52].

10 NEW SECTION. Section 13. Administrative expenses. (1)
 11 The expense of administering [sections 1 through 53 52];
 12 exclusive of the payment of retirement allowances and other
 13 benefits, may be paid from the fund.

14 (2) Before July 15 of each year, the board may compute
 15 the administrative costs for the immediately preceding
 16 fiscal year and transfer that amount from the fund to the
 17 public employees' retirement system account in the agency
 18 fund.

19 NEW SECTION. Section 14. Active membership. (1) A
 20 full-paid firefighter becomes an active member under the
 21 plan:

22 (a) on the first day of his employment by an employer;
 23 (b) on July 1, 1981, if he is employed by an employer
 24 on that date; or

25 (c) in the case of an employer that elects to join the

1 plan as provided in [section 8], on the effective date of
 2 such election if he is employed by the employer on that
 3 date.

4 (2) Upon becoming eligible for membership, he shall
 5 complete the forms and furnish any proof required by the
 6 board.

7 (3) A part-paid firefighter may elect to become a
 8 member of the plan by filing a membership application with
 9 the board.

10 NEW SECTION. Section 15. Ineligibility for other
 11 retirement plans. No active member is eligible to be covered
 12 under any other mandatory retirement plan for firefighters
 13 to which an employer is required to contribute on his behalf
 14 while he is eligible to be covered by this plan.

15 NEW SECTION. Section 16. Inactive membership. (1) An
 16 active member becomes an inactive member upon the occurrence
 17 of the earlier EARLIEST of the following:

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

20 (b) the 31st day of an approved absence from active
 21 duty with an employer; OR

22 (C) THE DATE HE CEASES TO BE EMPLOYED BECAUSE OF A
 23 REDUCTION OF THE NUMBER OF FIREFIGHTERS IN THE FIRE
 24 DEPARTMENT AS PROVIDED IN 7-33-6125.

25 (2) An inactive member becomes an active member on the

1 day he returns to active duty with an employer. Upon again
 2 becoming an active member, his retirement allowance, if any,
 3 shall cease being paid to him until he again becomes an
 4 inactive member.

5 NEW SECTION. Section 17. Termination of employment
 6 prior to retirement. (1) Except as provided in subsection
 7 (2), an active member shall MAY withdraw the amount of his
 8 member contributions, plus regular interest as determined by
 9 the board, in lieu of all other benefits under the plan upon
 10 his termination of employment prior to his retirement. If an
 11 active member's employment terminates by reason of his
 12 death, his beneficiaries are entitled to the benefits
 13 prescribed in [section 44].

14 (2) If a member has 10 years or more of creditable
 15 service before termination, he may keep his contributions on
 16 deposit and be eligible for a service retirement at age 50.

17 NEW SECTION. Section 18. Cessation of membership. A
 18 member shall cease to be a member upon the occurrence of the
 19 earlier of the following:

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

22 (2) the date of his death.

23 NEW SECTION. Section 19. Credited service to be
 24 cumulative. A member is entitled to benefits upon the entire
 25 period of his credited service without regard to the number

1 of employers by whom he was employed or the number of
 2 periods of his employment so that no duplication of credited
 3 service occurs.

4 NEW SECTION. Section 20. Military service. (1) A
 5 firefighter inducted into the armed forces of the United
 6 States may:

7 (a) continue his payments into the account during his
 8 military service; or

9 (b) within 2 years after his return to active
 10 firefighter status, contribute to the account an amount
 11 equal to the membership contributions that he would have
 12 made had he been a firefighter during the time of his
 13 military service.

14 (2) If a member chooses one of the options in
 15 subsection (1) and meets its requirements, he shall receive
 16 credit for his service in the armed forces of the United
 17 States as if it were service as a firefighter.

18 NEW SECTION. Section 21. Election to qualify previous
 19 military service. (1) A member with 15 years or more of
 20 service may, at any time prior to his retirement, make a
 21 written election with the board to qualify all or any
 22 portion of his active service in the armed forces of the
 23 United States for the purpose of calculating retirement
 24 benefits, up to a maximum of 5 years, if he is not otherwise
 25 eligible to receive credit. To qualify this service he must

1 contribute to the account the actuarial cost of granting the
 2 service to be determined by the board based on his
 3 compensation and normal contribution rate as of his 16th
 4 year and as many succeeding years as are required to qualify
 5 this service, with interest from the date he becomes
 6 eligible for this benefit to the date he contributes. He may
 7 not qualify more of his military service than he has service
 8 in excess of 15 years. Military service purchased under this
 9 section may not be used in determining eligibility for a
 10 service retirement requiring a minimum of 10 years of
 11 service.

12 (2) If a member has retired from active duty in the
 13 armed forces of the United States with normal service
 14 retirement benefits, he may not qualify his military service
 15 under subsection (1). However, a member who is serving or
 16 has served in the military reserves with the expectation of
 17 receiving a military service pension may qualify his active
 18 military service under subsection (1) if his active duty in
 19 the armed forces of the United States is not more than 25%
 20 of the total of all his years of military service, including
 21 reserve and active duty time.

22 NEW SECTION. Section 22. Retirement account.
 23 Beginning July 1, 1981, an account in the agency fund shall
 24 be maintained on behalf of the plan. The state treasurer is
 25 the custodian of the account subject to the exclusive

1 administrative control of the board.

2 NEW SECTION. Section 23. Management of funds by
 3 department of administration. Except as otherwise provided
 4 in [sections 1 through 53 52], the department of
 5 administration, through the administrator and the board of
 6 investments, shall administer, invest, account for, and
 7 treat the funds deposited with it under [sections 1 through
 8 53 52] according to the rules addressing the public
 9 employees' retirement system, insofar as these rules are not
 10 inconsistent with those promulgated and adopted by the
 11 board. The contributions of the state, employers, and
 12 members paid to the administrator under [sections 1 through
 13 53 52] may be commingled for investment purposes.

14 NEW SECTION. Section 24. Unfunded liabilities. (1)
 15 The legislature finds and declares that many cities
 16 operating under prior plans have excess and unfunded
 17 liabilities, and the liabilities cannot be amortized by the
 18 percentage contributions set forth in [sections 1 through 53
 19 52].

20 (2) The administrator shall, on or before October 1,
 21 determine the excess and unfunded liability of each
 22 city participating in the plan created by [sections 1
 23 through 53 52]. The determination must be negotiated between
 24 each city and the administrator. Each city determined by the
 25 administrator to have an excess and unfunded liability under

1 a prior plan that, as of July 1, 1984, is not funded by sums
 2 on deposit or funds available for deposit with the
 3 administrator shall pay an additional sum over a period of
 4 time to amortize its excess liability as determined by
 5 agreement between the city and the administrator.

6 (3) Each city determined by the administrator to be
 7 paying an amount in excess of the amount necessary to
 8 amortize its liabilities under the prior plan and under
 9 [sections 1 through 53 52] shall receive a credit in the
 10 accounts of the administrator for the excess payments.

11 (4) For each city with an unfunded liability, any
 12 portion of the member, employer, and state contributions
 13 that exceeds the amount necessary to maintain the current
 14 level of unfunded liability must be applied to the reduction
 15 of the unfunded liability.

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

1 actuaries or of any organization considered by the board to
 2 have similar standards.

3 NEW SECTION. Section 26. Transfer of dormant member
 4 account. The board may, in its discretion, transfer member
 5 contributions to the employer's account if the member's
 6 contribution account has been dormant for a period of 10
 7 years. No right of the member may be jeopardized by such a
 8 transfer, and the member contributions shall be transferred
 9 back to the member's name upon his subsequent reinstatement
 10 as an active member.

11 NEW SECTION. Section 27. Member contributions. The
 12 treasurer—or—other—appropriate—official—of—each EACH
 13 employer shall retain from the monthly compensation of each
 14 active member a sum equal to 7% of his monthly compensation
 15 for his services as a firefighter—the-monthly-deduction
 16 from-the-salaries-of--firefighters--shall--be--paid--to--the
 17 administrator--for--the--purpose--of--paying--the--retirement
 18 allowances-of-retired-firefighters-and-to-defray-expenses-of
 19 the-Montana--state--firemen's--association--as--provided--in
 20 Section 10; AND SHALL REPORT AND REMIT ON A MONTHLY BASIS:

21 (1) 6% OF THE MONTHLY COMPENSATION OF EACH MEMBER TO
 22 THE ADMINISTRATOR FOR DEPOSIT IN THE FUND; AND
 23 (2) 1% OF THE MONTHLY COMPENSATION OF EACH MEMBER TO
 24 THE MONTANA STATE FIREMEN'S ASSOCIATION FOR THE PAYMENT OF
 25 PREMIUMS ON A GROUP LIFE AND ACCIDENTAL DEATH AND

1 DISMEMBERMENT INSURANCE POLICY FOR MEMBERS AND TO DEFRAY
 2 EXPENSES INCURRED BY THE ASSOCIATION WHEN REPRESENTING
 3 MEMBERS OF THE PLAN.

4 NEW SECTION. Section 28. Vesting and withdrawal of
 5 contributions. A member is at all times fully vested in the
 6 deductions PAID TO THE ADMINISTRATOR AND made from his
 7 compensation as a member or as a member of a prior plan
 8 standing to his credit and may, at his discretion, withdraw
 9 the full amount of these deductions upon his termination of
 10 employment in accordance with [section 17] and forfeit all
 11 rights and interest with respect to any benefits that would
 12 otherwise become payable under the plan.

13 NEW SECTION. Section 29. Redeposit of amounts
 14 withdrawn upon reinstatement. (1) Upon reinstatement to
 15 active membership, a member may redeposit in the fund, in
 16 one lump sum or in installments not to exceed 12 monthly or
 17 24 semimonthly installments, an amount equal to the member
 18 contributions that he withdrew plus an amount equal to the
 19 interest that would have been credited to his account had he
 20 not withdrawn his member contributions. If a member makes
 21 such a redeposit, his credited service shall be reinstated.
 22 (2) If an active member does not elect to make the
 23 redeposit provided for in subsection (1), he forfeits his
 24 credited service for the period attributable to the
 25 withdrawn member contributions.

1 NEW SECTION. Section 30. State contribution. The
 2 state shall make its contributions through the state auditor
 3 from the premium taxes on the insurance risks enumerated in
 4 19-11-512. These payments shall be made annually to the
 5 administrator after the end of each fiscal year but no later
 6 than September 1 from the gross premium taxes after
 7 deduction for cancellations and returned premiums. The
 8 administrator shall notify the auditor of the annual
 9 compensation, excluding overtime, holiday payments, shift
 10 differential payments, compensatory time payments, and
 11 payments in lieu of sick leave, paid to all active members
 12 during the preceding year, and EFFECTIVE JULY 1, 1981, the
 13 state's contribution is ~~10%~~ 12% of this compensation. THIS
 14 CONTRIBUTION SHALL INCREASE TO 15% EFFECTIVE JULY 1, 1982,
 15 AND TO 18% EFFECTIVE JULY 1, 1983. As soon as practicable
 16 after receipt of the state contribution, the administrator
 17 shall deposit it with the state treasurer.

18 NEW SECTION. Section 31. Employer contribution. Each
 19 employer shall make its contribution on behalf of members
 20 through the city treasurer or other appropriate official
 21 from money available to the city for this purpose. Effective
 22 July 1, 1981, the employer's contribution is 12% of the
 23 total monthly compensation paid to all active members during
 24 the preceding month. This contribution shall increase to 15%
 25 effective July 1, 1982, and to 18% effective July 1, 1983.

1 All contributions are payable monthly to the administrator
 2 who shall, as soon as practicable after their receipt,
 3 deposit them with the state treasurer.

4 NEW SECTION. Section 32. Taxing authority of
 5 employers. (1) For the purpose of making contributions
 6 required of a city under [sections 1 through 53 ~~52~~],
 7 whenever the demand for deposits of such contributions
 8 cannot be met within the general taxing authority and other
 9 revenues available to the city for that purpose, the
 10 appropriate authority of the city may levy any additional
 11 tax authorized by law until the general taxing authority and
 12 other revenue available for that purpose is sufficient to
 13 meet the demand.

14 (2) "General taxing authority", as used in this
 15 section, means that levy which the city may make under the
 16 all-purpose levy or under multiple-purpose levies, if the
 17 city is using multiple-purpose levies.

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

21 NEW SECTION. Section 33. Other money credited as
 22 employer contributions. All gifts, bequests, and emoluments
 23 given to an employer or member for the benefit of the plan
 24 or because of any member's service as a firefighter, except
 25 when specifically allowed to be retained by the member by

1 his employer, shall be paid to the administrator. The
 2 administrator shall credit them to the fund and, as soon as
 3 practicable after their receipt, deposit them with the state
 4 treasurer. Such amounts are employer contributions but are
 5 in addition to the amounts required by [section 31].

6 NEW SECTION. Section 34. Eligibility for service
 7 retirement. The following members are eligible for service
 8 retirement:

9 (1) a member who has reached age 50 and has completed
 10 10 years or more in the aggregate as a firefighter in any
 11 capacity or rank;

12 (2) a member who has reached mandatory retirement age
 13 under [section 35] regardless of his number of years of
 14 service.

15 NEW SECTION. Section 35. Mandatory retirement. (1) An
 16 active member must retire on the first day of the month
 17 coinciding with or immediately following, if none coincides,
 18 the date on which he reaches age 65.

19 (2) A member who reaches mandatory retirement age may
 20 not be allowed creditable service for services rendered
 21 after the mandatory retirement date or contribute to the
 22 retirement system after this date.

23 NEW SECTION. Section 36. Application for service
 24 retirement. On or after a member's minimum retirement date
 25 and prior to his mandatory retirement date, he may retire on

1 a service retirement allowance by making written application
 2 to the employer. The employer shall forward the application
 3 to the board not less than 30 days or more than 90 days
 4 before the elected retirement date. The application shall
 5 state the elected retirement date.

6 NEW SECTION. Section 37. Amount of retirement
 7 allowance. (1) (a) A member hired before July 1, 1981, who
 8 is eligible under [subsection (1) of section 34] and who
 9 elects to retire after completing 20 years of service and
 10 reaching age 50 as an active firefighter shall receive a
 11 service retirement allowance equal to one-half the monthly
 12 compensation last received by the member for his service as
 13 an active firefighter. A member who completes more than 20
 14 years of service shall receive an additional 1% of his final
 15 monthly compensation for each year in excess of 20, up to a
 16 maximum of 60% of the monthly compensation last received by
 17 the member.

18 (b) A member hired before July 1, 1981, who is
 19 eligible under [subsection (1) of section 34] and who elects
 20 to retire after completing 10 years or more of service but
 21 has not both completed 20 years of service and reached age
 22 50 as an active firefighter shall receive a service
 23 retirement allowance equal to 2% of the monthly compensation
 24 last received by the member for each year of service up to a
 25 maximum of 60% of his final monthly salary.

1 (i) If the member dies after he is permanently
 2 separated from service and before he both reaches age 50 and
 3 completes 20 years of service as an active firefighter, the
 4 allowance prescribed in subsection (1)(b) must be made to
 5 the surviving spouse beginning on the date the firefighter
 6 would have both reached his 50th birthday and completed 20
 7 years of service as an active firefighter and terminating
 8 upon the surviving spouse's death or remarriage. If there is
 9 no surviving spouse or if the surviving spouse dies or
 10 remarries and if the firefighter leaves one or more
 11 dependent children, the children are entitled to receive the
 12 allowance as long as they remain dependent as defined in
 13 [section 4].

14 (ii) If the firefighter dies after he both reaches age
 15 50 and completes 20 years of service as an active
 16 firefighter, the payments must be made to the surviving
 17 spouse or children as provided in subsection (1)(b)(i).

18 (2) A member hired on or after July 1, 1981, who:
 19 (a) is eligible under [subsection (1) of section 34]
 20 shall receive a service retirement allowance equal to 2% of
 21 his final average salary for each year of service up to a
 22 maximum of 30 years of service;
 23 (b) is eligible under [subsection (2) of section 34]
 24 shall receive a service retirement allowance equal to
 25 one-half his final average salary;

1 (c) is retired under [subsection (2) of section 34]
 2 and who was theretofore eligible at his option to be retired
 3 under [subsection (1) of section 34] but elected to serve
 4 additional years shall be paid for the additional years over
 5 his original eligibility at the rate prescribed in
 6 subsection (2)(a).

7 NEW SECTION. Section 38. Board's determination of
 8 disability. The board shall determine whether a member has
 9 become totally and permanently disabled. In making this
 10 determination, the board, any board member, or any
 11 authorized representative of the board may order medical
 12 examinations, conduct hearings, administer oaths and
 13 affirmations, take depositions, certify to official acts,
 14 and issue subpoenas to compel the attendance of witnesses
 15 and the production of books, papers, correspondence,
 16 memoranda, and documents considered necessary as evidence in
 17 connection with the claim for disability retirement. The
 18 board shall secure medical service and advice necessary to
 19 carry out the purposes of this section and shall pay
 20 compensation for those medical services and advice.

21 NEW SECTION. Section 39. Eligibility for disability
 22 retirement. If a member is determined by the board to be
 23 totally and permanently disabled, he is entitled to receive
 24 a disability retirement allowance, regardless of the length
 25 of his service, beginning the first day after the date on

1 which he became totally and permanently disabled.

2 NEW SECTION. Section 40. Amount of disability
3 retirement allowance. (1) A member hired before July 1,
4 1981, who is eligible under [section 39]:

5 (a) before completing 20 years of service shall
6 receive a disability retirement allowance equal to one-half
7 the monthly compensation last received by the member for his
8 services as an active firefighter;

9 (b) after completing 20 years or more of service shall
10 receive the disability retirement allowance provided in
11 subsection (1)(a) increased at a rate of 1% for each year in
12 excess of 20, up to a maximum of 60% of the monthly
13 compensation last received by the member.

14 (2) A member hired on or after July 1, 1981, who is
15 eligible under [section 39]:

16 (a) before completing 25 years of service shall
17 receive a disability retirement allowance equal to one-half
18 his final average salary;

19 (b) after completing 25 years or more of service shall
20 receive the disability retirement allowance provided in
21 subsection (2)(a) increased at a rate of 2% for each year in
22 excess of 25, up to a maximum of 5 years of additional
23 service.

24 NEW SECTION. Section 41. Medical examination of
25 disability retiree -- cancellation of allowance. (1) The

1 board in its discretion may require the recipient of a
2 disability retirement allowance to undergo a medical
3 examination at the board's expense. The examination must be
4 made by a physician or surgeon at the recipient's place of
5 residence or at another place mutually agreed on. Based on
6 the results of the examination, the board shall determine
7 whether the recipient has the physical or mental capacity to
8 perform the duties required by his position. If the board
9 determines that the recipient is not incapacitated or if the
10 recipient refuses to submit to a medical examination, his
11 disability retirement allowance shall be canceled. The
12 board shall notify the recipient of this determination and
13 the cancellation of his allowance.

14 (2) The cancellation of a disability allowance because
15 a member is no longer incapacitated does not prejudice any
16 right of the member to a service retirement benefit.

17 NEW SECTION. Section 42. Reinstate ment upon
18 termination of allowance. (1) (a) An inactive member whose
19 disability retirement allowance is canceled as provided in
20 [section 41] shall be reinstated to the position held by him
21 immediately before his retirement or to a position in the
22 same classification with duties within his capacity if an
23 appropriate vacancy exists within his fire department. The
24 board shall advise the employer that the disability
25 retirement allowance has been canceled and that the inactive

1 member is eligible for reinstatement to duty. The fact that
 2 he was retired for disability may not prejudice any right to
 3 reinstatement to duty which the inactive member may have or
 4 claim to have.

5 (b) If no appropriate vacancy exists within an
 6 inactive member's fire department when his disability
 7 allowance is canceled under [section 41], his allowance must
 8 be reinstated until a vacancy occurs.

9 (2) The city may request a medical or psychological
 10 review as to the ability of the member to return to work as
 11 a firefighter. If the board's findings are upheld, the city
 12 shall pay the costs of the review.

13 (3) If the inactive member again becomes an active
 14 member by returning to active work for an employer within 30
 15 days following his receipt of notice under [section 41], he
 16 shall be considered to have been continuously employed
 17 during the term of his disability. If the inactive member
 18 fails to become an active member by returning to active work
 19 for an employer within 30 days following receipt of this
 20 notice, his termination of employment shall be considered to
 21 have occurred as of his disability retirement date and the
 22 retirement allowance, if any, to which he becomes entitled
 23 on his service retirement shall be determined accordingly.

24 NEW SECTION. Section 43. Payment of service or
 25 disability allowance upon death of member. A member's

1 service or disability allowance shall be paid first to the
 2 member during his lifetime and, upon his death, to his
 3 surviving spouse as long as such spouse remains unmarried.
 4 If upon a member's death he leaves no surviving spouse, or
 5 upon the death or remarriage of a surviving spouse, his
 6 allowance shall be paid to his dependent children as long as
 7 they remain dependent as defined in [section 4].

8 NEW SECTION. Section 44. Survivorship allowance.
 9 (1) (a) Upon the death before retirement of an active member
 10 hired before July 1, 1981, his surviving spouse, if there is
 11 one, shall, as long as such spouse remains unmarried,
 12 receive a survivorship allowance equal to one-half the
 13 monthly compensation last received by the member for his
 14 service as an active firefighter. If the member leaves one
 15 or more dependent children, then, upon his death if he
 16 leaves no surviving spouse or upon the death or remarriage
 17 of the surviving spouse, his dependent children shall
 18 collectively receive the same allowance that a surviving
 19 spouse would have received as long as the children remain
 20 dependent as defined in [section 4].

21 (b) If the deceased member completed over 20 years of
 22 service, the survivorship allowance provided in subsection
 23 (1)(a) must be increased at a rate of 1% for each year in
 24 excess of 20, up to a maximum of 60% of the monthly
 25 compensation last received by the member.

1 (2) Upon the death before retirement of a member hired
 2 on or after July 1, 1981, his surviving spouse, if there is
 3 one, shall, as long as such spouse remains unmarried,
 4 receive a survivorship allowance equal to one-half of the
 5 member's final average salary. If the firefighter leaves one
 6 or more dependent children, then, upon his death if he
 7 leaves no surviving spouse or upon the death or remarriage
 8 of the surviving spouse, his dependent children shall
 9 collectively receive the same allowance that a surviving
 10 spouse would have received, as long as the children remain
 11 dependent as defined in [section 4].

12 NEW SECTION. Section 45. Payment of death benefits in
 13 absence of spouse or child. If a member dies without leaving
 14 a surviving spouse or children, the administrator shall
 15 compute the total contributions made to the fund by the
 16 deceased member, and if the deceased member had designated a
 17 beneficiary in writing to the administrator, the
 18 administrator shall issue a warrant for the amount of the
 19 total contributions payable to that beneficiary. If the
 20 deceased member had not nominated a beneficiary, the
 21 contributions shall be paid to his estate.

22 NEW SECTION. Section 46. Allowance adjustment. (1) For a member hired on or after July 1, 1973, but before July
 23 1, 1981, and his surviving spouse or dependent children, the
 24 service retirement allowance provided in [subsection (1)(a)]

1 of section 37], the disability retirement allowance provided
 2 in [subsection (1) of section 40], and the survivorship
 3 allowance provided in [subsection (1) of section 44] may not
 4 be less than one-half the monthly compensation paid to a
 5 newly confirmed, active firefighter of a city that last
 6 employed him as a firefighter, as provided each year in the
 7 budget of that city.

8 (2) FOR A MEMBER HIRED ON OR AFTER JULY 1, 1981, AND
 9 HIS SURVIVING SPOUSE OR DEPENDENT CHILDREN, THE DISABILITY
 10 RETIREMENT ALLOWANCE PROVIDED IN [SUBSECTION (2) OF SECTION
 11 40] AND THE SURVIVORSHIP ALLOWANCE PROVIDED IN [SUBSECTION
 12 (2) OF SECTION 44] MAY NOT BE LESS THAN ONE-HALF THE MONTHLY
 13 COMPENSATION PAID TO A NEWLY CONFIRMED, ACTIVE FIREFIGHTER
 14 OF A CITY THAT LAST EMPLOYED HIM AS A FIREFIGHTER, AS
 15 PROVIDED EACH YEAR IN THE BUDGET OF THAT CITY.

16 NEW SECTION. Section 47. Retirement allowances to be
 17 monthly and fixed. The retirement allowances granted under
 18 the provisions of [sections 1 through 53 52] shall be paid
 19 in monthly installments and may not be increased or
 20 decreased, except as specifically provided in [sections 1
 21 through 53 52].

22 NEW SECTION. Section 48. Correction of erroneous
 23 payments. If any change in records fraudulently made or any
 24 mistake in records inadvertently made results in any member,
 25 survivor, or beneficiary receiving more or less than he was

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

4 NEW SECTION. Section 49. Exemption from taxes. Any
 5 money received as a retirement allowance in accordance with
 6 the provisions of [sections 1 through 53 52] is exempt from
 7 any state or municipal tax.

8 NEW SECTION. Section 50. Protection from legal
 9 process -- unassignability. The benefits payable under
 10 [sections 1 through 53 52] are not subject to the claims of
 11 any creditor of a member, beneficiary, or survivor or to
 12 attachment, garnishment, or other legal or equitable
 13 process. No member, beneficiary, or survivor may alienate,
 14 anticipate, commute, pledge, encumber, assign, or sell any
 15 of such benefits.

16 NEW SECTION. Section 51--Payment-----of-----insurance
 17 premiums--The board shall annually authorize an expenditure
 18 from the fund to the Montana State Firemen's Association for
 19 the payment of premiums on a group life and accidental death
 20 and dismemberment insurance policy for members. This payment
 21 may not exceed \$475--of--it--of--the--annual--compensation
 22 excluding overtime,--holiday--payments,--shift--differentiation
 23 payments,--compensatory--time--payments,--and--payments--in--lieu
 24 of sick--leave--paid--to--all--active--members--during--the
 25 preceding year.

1 NEW SECTION. Section 51. Withholding of group
 2 insurance premium from retirement benefit. A retiree who is
 3 a participant in an employee group insurance plan that
 4 permits participation in the group plan following retirement
 5 may elect to have the monthly premium for such group
 6 insurance withheld by the administrator and paid directly by
 7 the administrator to the insurance carrier. To qualify for
 8 this withholding, a retiree must be a participant in a group
 9 insurance plan available to the employees of his former
 10 employer. No withholding may be made for any retiree covered
 11 by an individual insurance policy.

12 NEW SECTION. Section 52. Supplement to certain
 13 retirement allowances. The plan shall pay to each
 14 firefighter retired before July 1, 1973, or his surviving
 15 spouse and children a monthly retirement allowance of not
 16 less than one-half the regular monthly salary paid to a
 17 confirmed active firefighter of the city that last employed
 18 him as a firefighter, as provided each year in the budget of
 19 that city. In the case of volunteer firefighters, the
 20 retirement allowance may not exceed \$75 per month.
 21 Distribution of the funds provided for this purpose under
 22 19-11-606(1) shall be made as follows:
 23 (1) At the beginning of each fiscal year the
 24 administrator shall request and the state auditor shall
 25 issue from the earmarked revenue fund and deliver to the

1 administrator an amount certified to be equal to the total
 2 annual dollar difference between what the retirees or their
 3 surviving spouses and children received from the fund and
 4 one-half of the salary paid by the respective city or town
 5 to a confirmed active firefighter for the fiscal year just
 6 preceding.

7 (2) The administrator shall use the funds to increase
 8 the monthly retirement allowances of the retirees or their
 9 surviving spouses and children to an amount equal to
 10 one-half of the salary that was paid to a confirmed active
 11 firefighter in the respective city or town for the preceding
 12 year.

13 Section 53. Section 19-9-1007, MCA, is amended to
 14 read:

15 "19-9-1007. Supplement to certain pensions. (1) The
 16 payment for each fiscal year to the police officers,
 17 spouses, or minor children described in subsections (2)(a)
 18 through (2)(c) may be not less than one-half of the base
 19 salary paid in the previous calendar year in the appropriate
 20 city or town to newly confirmed police officers, except that
 21 for the fiscal year beginning July 1, 1979, all retirees and
 22 their beneficiaries who received a supplement to their
 23 retirement allowance on July 1, 1978, and are receiving an
 24 allowance on July 1, 1979, shall receive a 3% increase in
 25 their retirement allowance in lieu of any other increase.

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

4 (a) the names of all police officers who are receiving
 5 payments from the plan as of the date of the report and were
 6 receiving payments from a prior plan before July 1, 1975;

7 (b) the names of all spouses or minor children who are
 8 receiving payments from the plan because of the death of a
 9 police officer who was receiving payments from a prior plan
 10 before July 1, 1975;

11 (c) the names of all spouses or minor children who are
 12 receiving payments from the plan and who were receiving
 13 payments from a prior plan before July 1, 1975, or in the
 14 case of minor children, whose parent, the spouse of a police
 15 officer, was receiving payments from a prior plan before
 16 July 1, 1975;

17 (d) for the purpose of determining the base figure for
 18 the computations set forth in subsection (3), the following
 19 information relating to the base fiscal year commencing July
 20 1, 1976:

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

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

1 (iii) upon the death after April 18, 1977, of any
 2 police officer on the retired list who was receiving
 3 payments from a prior plan before July 1, 1975, and who is
 4 survived by a spouse or minor children entitled to receive
 5 payments from the plan, the amount which would have been
 6 paid to an eligible spouse of such police officer had that
 7 spouse been receiving payments in the base fiscal year;

8 (e) the base salary for the previous calendar year of
 9 a newly confirmed police officer of each city or town
 10 participating in the plan.

11 (3) The state auditor shall, upon receipt of the
 12 report referred to in subsection (2), compute the difference
 13 between each amount reported under subsections (2)(d)(i)
 14 through (2)(d)(iii) and one-half the base salary for the
 15 previous calendar year of a newly confirmed police officer
 16 of the appropriate city or town. The difference shall be
 17 paid by the state auditor out of the premium tax collected
 18 on insurance sold in this state to insure against the risks
 19 enumerated in 19-11-512~~(5)~~⁽³⁾ to the administrator no later
 20 than May 31 of each year. This payment is in addition to the
 21 payment to be made by the state auditor under 19-9-702. The
 22 administrator shall use the funds received under this
 23 subsection to supplement the monthly payments to persons
 24 described in subsections (2)(a) through (2)(c) so that the
 25 requirements of subsection (1) are met.

1 (4) In addition to the payments made by the auditor as
 2 provided in subsection (3), the auditor shall make annual
 3 payments of \$100,000 on or before June 30 of each year until
 4 the sum of \$500,000 has been paid to the administrator for
 5 deposit in the retirement account. These payments are to be
 6 made to reimburse the retirement account for funds advanced
 7 to implement this section.

8 (5) If more than one minor child is entitled to
 9 supplementary payments under this section by virtue of the
 10 death of a common parent police officer, the minimum payment
 11 to such minor children under this section shall be
 12 determined as if there were one such minor child and the
 13 supplementary payment shall be made to the minor children
 14 collectively."

15 Section 54. Section 19-11-401, MCA, is amended to
 16 read:

17 "19-11-401. Management of association. The management
 18 of the fire department relief associations in-municipalities
 19 other-than-first--and-second-class-cities is vested in the
 20 boards of trustees, except as provided in 19-11-402 and
 21 19-11-403."

22 Section 55. Section 19-11-403, MCA, is amended to
 23 read:

24 "19-11-403. Investment of fund by board of
 25 investments. (1) When Whenever the average yield on

1 investments of public retirement funds under the board of
 2 investments exceeds by 1% in any fiscal year the average
 3 yield on investments of the fund made pursuant to 19-11-402,
 4 the surplus money in the fund shall be remitted to the state
 5 treasurer for investment by under the direction of the board
 6 of investments as is provided in 19-11-302 for associations
 7 in first- and second-class cities 17-6-204. The department
 8 of community affairs shall advise the association of the
 9 current yield on investments of public retirement funds.

10 (2) As used in subsection (1), "surplus money" means
 11 the excess over the greater of the following:

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

14 (b) \$5,000."

15 Section 56. Section 19-11-504, MCA, is amended to
 16 read:

17 "19-11-504. Amount of special tax levy. (1) Whenever
 18 the total amount of the fund is less than 2% of the taxable
 19 valuation of all taxable property within the limits of the
 20 city or town, the special tax levy shall be
 21 at not less than 1 mill or more than 4 mills on each
 22 dollar of taxable valuation of all taxable property within
 23 the limits of the city or town and
 24 fifty an amount sufficient to provide a growth per year
 25 in the fund considering all sources of income to the fund

1 and the payment of obligations out of the fund, equal to the
 2 sum produced by 1 mill levied on the taxable valuation of
 3 all the taxable property in the city or town,
 4 fifteen percent of the special tax levy shall be a fractional part of
 5 1 mill whenever
 6 the total amount of the fund is less than 2% but
 7 more than 1% of the taxable valuation of all taxable
 8 property within the city or town and
 9 fifty percent of the special tax levy of a fractional part of 1
 10 mill will produce sufficient revenue to cause the fund,
 11 considering all sources of income to the fund and all
 12 payments to be made out of the fund, to exceed 2% of the
 13 taxable valuation of all taxable property within the city or
 14 town.

15 (2) In cities of the third class, whenever the
 16 fund contains an amount which is less than 2% of the taxable
 17 valuation of all taxable property in the city or town, the
 18 city council shall levy an annual special tax of not less
 19 than 1 mill and not more than 4 mills on each dollar of
 20 taxable valuation of all taxable property within the city or
 21 town."

22 Section 57. Section 19-11-512, MCA, is amended to
 23 read:

24 "19-11-512. State auditor to pay association out of
 25 insurance premium taxes. (1) At the end of the fiscal year,

1 the state auditor shall issue and deliver the payment
 2 described in this subsection to the board of investments to
 3 be credited to the account of each fire department relief
 4 association of any city or town of the first or second class
 5 which has a fire department relief association entitled by
 6 law to receive payments. The state auditor shall at the
 7 same time report to the treasurer of the association the
 8 amount of the payment. The payment shall be for the use and
 9 benefit of the association. It shall be paid out of the
 10 premium taxes on insurance risks enumerated in subsection
 11 67 collected by the state auditor and shall be equal to 10%
 12 of the total annual compensation paid by the city or town to
 13 its paid or part paid firefighters for services in the
 14 previous calendar year. The city clerk of the city or town
 15 shall certify in writing to the state auditor on or before
 16 April 1 of each year the amount paid by the city or town as
 17 compensation for services to paid or part paid firefighters.
 18 ~~t2~~ When there is a disaster resulting in death or
 19 injury sufficient to draw the pensions of 10% of the active
 20 force and the funds after receiving all moneys provided for
 21 in 19-11-503, 19-11-503A, 19-11-504, and subsection 47 of
 22 this section does not show at least the 1 mill growth
 23 referred to in 19-11-504, the treasurer of the association
 24 shall request and the state auditor shall issue and deliver
 25 an additional payment under the same conditions described in

1 subsection 47. The payment shall be in an amount sufficient
 2 to cause at least the above mentioned 1 mill growth in the
 3 funds.
 4 ~~t3~~ If a city is not entitled to receive a sum equal
 5 to 1 1/2 mills of its total taxable value under subsections
 6 47 and ~~t2~~ the payment shall be made in the amount
 7 provided in subsections 47 and 51 for cities of the third
 8 class and in the manner described in subsection 47.
 9 ~~t4~~ At the end of the fiscal year, the state
 10 auditor shall issue and deliver the warrant described in
 11 this subsection to the treasurer of every city or town
 12 except cities and towns of the first or second class which
 13 has a fire department relief association entitled by law to
 14 receive payments. The warrant shall be for the use and
 15 benefit of the association. It shall be for an amount equal
 16 to 1 1/2 mills of the total taxable value of the city or
 17 town and shall be paid out of the premium taxes on insurance
 18 risks enumerated in subsection 67 ~~13~~ collected by the
 19 state auditor.
 20 ~~t5~~ If the payment provided for in subsection 47
 21 ~~11~~ is less than \$100, an additional payment shall be made
 22 from the same tax moneys so that the total amount received
 23 is \$100.
 24 ~~t6~~ ~~13~~ The risks referred to in subsection subsection
 25 ~~11~~ and ~~t4~~ are:

1 (a) insurance of houses, buildings, and all other
 2 kinds of property against loss or damage by fire or other
 3 casualty;

4 (b) all kinds of insurance on goods, merchandise, or
 5 other property in the course of transportation, whether by
 6 land, water, or air;

7 (c) insurance against loss or damage to motor vehicles
 8 resulting from accident, collision, or marine and inland
 9 navigation and transportation perils;

10 (d) insurance of growing crops against loss or damage
 11 resulting from hail or the elements;

12 (e) insurance against loss or damage by water to any
 13 goods or premises arising from the breakage or leakage of
 14 sprinklers, pumps, or other apparatus;

15 (f) insurance against loss or legal liability for loss
 16 because of damage to property caused by the use of teams or
 17 vehicles, whether by accident or collision or by explosion
 18 of any engine, tank, boiler, pipe, or tire of any vehicle;
 19 and

20 (g) insurance against theft of the whole or any part
 21 of any vehicle."

22 Section 58. Section 19-11-513, MCA, is amended to
 23 read:

24 "19-11-513. Transfer of premium taxes to state
 25 treasury. The state auditor shall estimate the portion of

1 premium taxes needed to make the payments required by this
 2 chapter and shall pay an amount equal to the estimate into
 3 the state treasury, to the credit of the earmarked revenue
 4 fund. ~~The--state--auditor--shall--pay--the--actuary--fee--as~~
 5 ~~required-by-19-11-303.~~ Any balances remaining after such
 6 payments have been ordered shall be transferred to the
 7 general fund."

8 Section 59. Section 19-11-514, MCA, is amended to
 9 read:

10 "19-11-514. State treasurer to pay warrants. The state
 11 treasurer is hereby authorized and directed, upon the
 12 presentation to him of a warrant drawn pursuant to this
 13 chapter, to pay*

14 ~~(1)--in--the--case--of--a--municipality--other--than--a--city--of~~
 15 ~~the--first--or--second--class--to--the--treasurer--of--the--city--or~~
 16 ~~town, out of moneys in the earmarked revenue fund dedicated~~
 17 ~~for--such--purpose,--the--amount--of--such--warrant--specified,~~
 18 ~~which--amount--shall--be--paid--by--said--city--treasurer--to--said~~
 19 ~~fire--department--relief--association.~~

20 ~~(2)--in--the--case--of--a--city--of--the--first--or--second~~
 21 ~~class--to--the--board--of--investments--to--be--credited--to--the~~
 22 ~~account--of--the--fire--department--relief--association--out--of~~
 23 ~~the--money--in--the--earmarked--revenue--fund--dedicated--for--such~~
 24 ~~purpose--the--amount--of--the--warrant.~~"

25 Section 60. Section 19-11-606, MCA, is amended to

1 read:

2 "19-11-606. Supplement to certain pensions. (1) In
 3 addition to the taxes on premiums required by law to be paid
 4 by each insurer doing business in this state that is
 5 authorized to effect insurance on risks enumerated in
 6 19-11-512, there is a tax of 1 1/2% on the fire portion of
 7 the direct premiums received during the calendar year of
 8 1975 and each succeeding year, with allowance for
 9 cancellations and returned premiums. The insurance
 10 commissioner shall collect the tax during March of each year
 11 and deposit the moneys in the earmarked revenue fund. The
 12 auditor shall pay claims as provided in subsection (2) of
 13 this section and [section 53 52]. As those persons who are
 14 to receive the fund die, the tax shall be reduced
 15 proportionately, and when no eligible person, as defined by
 16 subsection (2) and [section 53 52], survives, the tax
 17 terminates and the remaining fund, if any, shall be
 18 transferred to the general fund.

19 (2) Effective January 1, 1976, each association shall
 20 pay to the firefighters retired before July 1, 1973, or
 21 ~~their~~ surviving spouses and children a monthly pension of
 22 not less than one-half the regular monthly salary paid to a
 23 confirmed active firefighter of that city, as provided each
 24 year in the budget of that city. In the case of volunteer
 25 firefighters, the pension may not exceed \$75 per month.

1 Distribution of the funds provided for this purpose under
 2 subsection (1) shall be made as follows:
 3 (a) At the beginning of each fiscal year the treasurer
 4 of each association shall request and the state auditor
 5 shall issue from the earmarked revenue fund and deliver ~~in~~
 6 ~~the-case-of-a-municipality-other-than-a-city-of-the-first-or~~
 7 ~~second-class~~ to the treasurer of the respective city or
 8 town ~~or-in-the-case-of-a-city-of-the-first-or-second-class~~
 9 ~~to-the-board-of-investments-to-be-credited-to-the-account-of~~
 10 ~~the--fire--department-relief-association~~ an amount certified
 11 to be equal to the total annual dollar difference between
 12 what the retirees or their surviving spouses and children
 13 received from the fund and one-half of the salary paid by
 14 the respective city or town to a confirmed active
 15 firefighter for the fiscal year just preceding. The state
 16 auditor shall, at the same time, report to the treasurer of
 17 the appropriate association the amount of any payment
 18 delivered to the board of investments.

19 (b) The treasurer of a city or town receiving funds
 20 shall immediately disburse them to the treasurer of the
 21 respective association.

22 (c) The treasurer of the association shall utilize
 23 these funds to increase the monthly pension of retirees or
 24 their surviving spouses and children to an amount equal to
 25 one-half of the salary that was paid to a confirmed active

1 firefighter in the city or town for the preceding year."

2 Section 61. Section 19-12-301, MCA, is amended to
3 read:

4 "19-12-301. Fire insurance premium tax to be paid into
5 fund. The state auditor and ex officio commissioner of
6 insurance shall annually deposit in the volunteer
7 firefighters' fund a sum equivalent to 5% of the premium
8 taxes collected from insurers authorized to effect insurance
9 against risks enumerated in 19-11-512, computed after the
10 amounts provided for by section 30 and 19-11-512 have
11 first been deducted. The moneys shall be used for the
12 payment of claims and administrative costs as provided in
13 this chapter."

14 Section 62. Repealer. Sections 19-11-301 through
15 19-11-303, MCA, are repealed.

16 Section 63. Effective date. (1) Section 6 is effective
17 on passage and approval.

18 (2) Sections 1 through 63 62, except for section 6,
19 are effective on July 1, 1981.

-End-