

SENATE BILL NO. 155
INTRODUCED BY KEYSER, McCALLUM

IN THE SENATE

January 16, 1981	Introduced and referred to Committee on State Administration. Fiscal note requested.
January 22, 1981	Fiscal note returned.
February 7, 1981	Committee recommend bill do pass as amended. Report adopted.
February 9, 1981	Bill printed and placed on members' desks.
February 10, 1981	Second reading, pass consideration. On motion taken from second reading and referred to Committee on Local Government. Motion adopted.
February 20, 1981	Committee recommend bill do pass. Report adopted.
February 21, 1981	Bill printed and placed on members' desks.
February 23, 1981	Second reading, do pass.
February 24, 1981	Correctly engrossed.
February 25, 1981	Third reading, passed. Ayes, 49; Noes, 0. Transmitted to House.

IN THE HOUSE

March 2, 1981	Introduced and referred to Committee on State Administration.
---------------	--

March 12, 1981

Committee recommend bill
be concurred in. Report
adopted.

March 14, 1981

Second reading, concurred in.

March 17, 1981

Third reading, concurred in.
Ayes, 96; Noes, 0.

IN THE SENATE

March 18, 1981

Returned from House. Concurred
in. Sent to enrolling.

Reported correctly enrolled.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Senate BILL NO. 155
INTRODUCED BY *Foyler McCallum*-----

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING MEMBERSHIP IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO PERMANENT FULL-TIME AND PERMANENT PART-TIME EMPLOYEES AND EXCLUDING EMPLOYEES WHO WORK LESS THAN 120 DAYS IN ANY FISCAL YEAR AND TEMPORARY OR INTERMITTENT EMPLOYEES; AMENDING SECTIONS 19-3-104, 19-3-401, AND 19-3-403, MCA."

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

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

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

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

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

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

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (28) "Retirement allowance" means the periodic benefit

1 payable following service, early, or disability retirement.

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

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

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

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

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

15 Section 2. Section 19-3-401, MCA, is amended to read:

16 "19-3-401. Membership. (1) All ~~permanent, full-time and~~
17 ~~permanent part-time~~ employees shall become members on the
18 first day of employment. Each employee shall file with the
19 board such information affecting his status as a member of
20 the retirement system as the board may require.

21 (2) Every ~~an~~ employee who reenters service shall
22 become a member unless he has had an original election of
23 exemption from membership and his service was not
24 interrupted by a break of more than 1 month. A seasonal
25 employee who has had an original election of exemption from

1 membership will not be subject to the requirement regarding
 2 the break in service while continuing in his original
 3 employment and employed on a seasonal basis, but upon
 4 termination of employment to accept new employment or
 5 absence of more than 1 month in returning to original
 6 employment in any ensuing season, such a seasonal employee
 7 shall become a member of the retirement system upon reentry.

8 (3) Time during which an employee of a school district
 9 is absent from service during official vacation shall be
 10 counted as service in determining eligibility for membership
 11 under this chapter."

12 Section 3. Section 19-3-403, MCA, is amended to read:

13 "19-3-403. Exclusions. The following persons may not
 14 become members of the retirement system:

15 (1) elective officers who have not filed with the
 16 board written requests to become members, except that a
 17 person so excluded from membership may later become a member
 18 by otherwise becoming an employee or by written request
 19 after a subsequent election to office, and if he
 20 affirmatively exercises the option, the contributions of the
 21 employer because of his membership shall be the same as they
 22 would have been had he not been so excluded;

23 (2) inmates of state institutions who are allowed
 24 compensation for such service as they are able to perform;

25 (3) persons in state institutions principally for the

1 purpose of training, but who receive compensation;

2 (4) independent contractors, unless there is a written
 3 contract which specifies the creation of an
 4 employer-employee relationship for purposes of retirement
 5 coverage under The Public Employees' Retirement System Act;

6 (5) employees serving in employment which does not
 7 exceed the equivalent of 60 ~~120~~ working days in any fiscal
 8 year;

9 (6) employees in service on July 1, 1945, or prior
 10 thereto who filed with the board elections not to become
 11 members, except that a person so excluded from membership
 12 may become a member and be eligible thereafter to receive
 13 the same benefits that he would have received if he had
 14 never filed an election not to be a member by meeting the
 15 requirements prescribed in 19-3-505 and 19-3-506;

16 (7) persons directly appointed by the governor who do
 17 not file with the board an election in writing to become
 18 members;

19 (8) persons who are members of any other retirement or
 20 pension system supported wholly or in part by funds of the
 21 United States government, any state government, or political
 22 subdivision thereof and who are receiving credit in the
 23 other system for service, it being the purpose of this
 24 subsection to prevent a person from receiving credit for the
 25 same service in two retirement systems supported wholly or

1 in part by public funds, except when the service qualifies,
 2 is applied for, and purchased pursuant to 19-3-503. A member
 3 of the retirement system who, because of his employment by
 4 the state, is required to become a member of any other
 5 system described in this subsection shall be considered,
 6 solely for the purposes of making normal contributions, as
 7 permanently separated from service. Exclusion under this
 8 subsection is subject to the following exceptions:

9 (a) When an employer has entered into a collective
 10 bargaining agreement which includes provisions for payments
 11 or contributions by the employer in lieu of wages to a
 12 retirement or pension plan qualified by the internal revenue
 13 service for its employees, the employees remain eligible, if
 14 otherwise qualified, for membership in the retirement
 15 system, and the payments or contributions in lieu of wages
 16 may not be considered a part of the employees' compensation
 17 for purposes of computing the employer or employee
 18 contributions to the retirement system.

19 (b) For the purpose of this subsection (8), persons
 20 receiving pensions, retirement allowances, or other payments
 21 from any source on account of employment other than as an
 22 employee as defined in this chapter are not considered,
 23 because of such receipt, members of any other retirement or
 24 pension system.

25 (9) court commissioners or appointive members of any

1 board or commission who serve the state or any contracting
 2 employer intermittently and who are paid on a per diem
 3 basis;

4 (10) persons who become employees after they have
 5 reached their 60th birthday and have no creditable service
 6 in this system and who do not file with the board an
 7 election to become members;

8 (11) employees of county hospitals or county rest homes
 9 in the sixth and seventh class counties, unless they elect
 10 to file with the board an election in writing to become
 11 members;

12 (12) persons employed by the legislature during the
 13 legislative session who do not file with the board an
 14 election in writing to become members;

15 (13) students of any public elementary school, high
 16 school, vocational-technical center, or community college or
 17 any unit of the state university system, except that a
 18 person so excluded from membership as a student of a public
 19 community college or a unit of the state university system
 20 who later becomes a member by otherwise becoming an employee
 21 may affirmatively exercise the option of qualifying the
 22 service excluded by this subsection by applying to the board
 23 in writing within 1 year after becoming a member and become
 24 eligible to receive credit for the excluded service under
 25 the provisions of 19-3-505;

LC 0931/01

1 (14) effective October 1, 1978, employees whose
2 positions are funded under the federal Comprehensive
3 Employment and Training Act (CETA) and who file with the
4 board elections not to become members. An employee who
5 exercises his election is considered terminated and is
6 eligible for a refund under 19-3-703, and any employer
7 contributions made on his behalf after October 1, 1978, must
8 be returned to the funding agency. If he is subsequently
9 transferred to non-CETA employment and consequently becomes
10 a member, he may revoke his election within 1 year after the
11 transfer date by filing a written revocation with the board
12 and he will then be eligible to qualify the service
13 previously excluded by this subsection under the provisions
14 of 19-3-505.

15 (15) the chief administrative officer of any city or
16 county where the chief administrative officer has filed an
17 election in writing with the board to be excluded from
18 membership, this election to be filed no later than July 1,
19 1979, or 30 days after initial employment by a county or
20 city whichever is later.

21 ~~(16) persons who are temporary or intermittent~~
22 ~~employees."~~

-End-

STATE OF MONTANA

REQUEST NO. 131-81

FISCAL NOTE

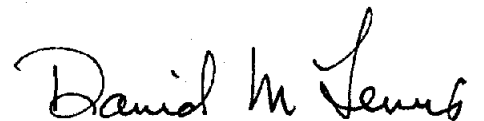
Form BD-15

In compliance with a written request received 1/19, 19 81, there is hereby submitted a Fiscal Note for S.B 155 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.

The effect of the bill is to permit retirees to return to covered employment for a period of 6 months a year and still continue to receive retirement benefits. Currently, retirees may work a maximum of 60 working days, or 3 months.

The long term effect of this bill is not measurable as we cannot determine the effect of this bill in future retirement patterns. It may encourage some individuals to retire if they can continue to work 6 months a year. This would increase the number of retirements.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-21-81

STATE OF MONTANA

REQUEST NO. 131-81
(Revised)

FISCAL NOTE

Form BD-15

In compliance with a written request received February 12, 19 81, there is hereby submitted a Fiscal Note for Senate Bill 155 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

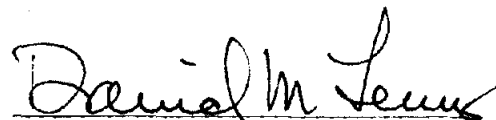
Senate Bill 155, as amended, provides that a person employed less than 120 days is excluded from membership from PERS, and that a retiree may return to work for no more than 60 working days with an employer covered under PERS. The one year restriction for qualification of student service time has been deleted.

Fiscal Impact

This bill would minimally reduce the overall employer contributions paid to the system, but it provides that if the service is qualified, the contribution will be paid.

The agencies that employ people less than 120 days will realize some savings of employer contributions.

The overall affect to the retirement system will be negligible.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-16-81

Approved by Committee
on State Administration

1 SENATE BILL NO. 155
 2 INTRODUCED BY KEYSER, McCALLUM
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING MEMBERSHIP IN
 5 THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO PERMANENT
 6 FULL-TIME-AND-PERMANENT-PART-TIME--EMPLOYEES--AND--EXCLUDING
 7 EMPLOYEES-WHO-WORK-LESS-THAN-120-DAYS-IN-ANY-FISCAL-YEAR-AND
 8 TEMPORARY--OR-INTERMITTENT BY REQUIRING CERTAIN EMPLOYEES TO
 9 AFFIRMATIVELY EXERCISE THE OPTION TO BECOME MEMBERS AND
 10 ELIMINATING THE ONE YEAR RULE FOR CERTAIN STUDENT EMPLOYEES;
 11 AMENDING SECTIONS 19-3-104, 19-3-401, AND SECTION 19-3-403,
 12 MCA."

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

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

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

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

24 (3)--"Accumulated--normal--contributions"--means--the--sum

1 of--all--the--normal--contributions--standing--to--the--credit--of--a
 2 member's--individual--account--without--interest;

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

6 (5)--"Actuary"--means--the--actuary--retained--by--the--board
 7 in--accordance--with--19-3-385;

8 (6)--"Additional--contributions"--means--contributions--by
 9 members--under--the--provisions--of--19-3-702;

10 (7)--"Annuity"--means--payments--for--life--derived--from
 11 contributions--made--by--a--member--as--provided--in--this--chapter;

12 (8)--"Beneficiary"--means--the--person--so--designated
 13 pursuant--to--part--13--of--this--chapter;

14 (9)--"Benefit"--means--the--retirement--allowance,
 15 survivorship--allowance,
 16 death--benefit,
 17 or--refund--of
 18 accumulated--contributions--provided--by--this--chapter;

19 (10)--"Board"--means--the--public--employees'--retirement
 20 board--provided--for--in--2-15-1009;

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

1 (12) "Contracting--employer"--means--any--political
2 subdivision--or--governmental--entity--which--has--contracted--to
3 come--into--the--system.

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

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

16 (15) "Employee"--means--any--person--who--is--employed--by--an
17 employer--in--any--capacity--whatever--and--whose--salary--is--paid
18 either--by--warrant--of--the--employer--or--from--the--fees--or--income
19 of--any--department--or--agency--of--the--employer--"Employee"
20 means--further--any--person--considered--such--pursuant--to
21 19-3-402.

22 (16) "Employer"--means--the--state--of--Montana--its
23 university--system--or--any--of--the--colleges--schools--
24 components--or--units--thereof--for--the--purposes--of--this
25 chapter--or--any--political--subdivision--or--governmental--entity

1 which--has--contracted--to--come--into--the--system.

2 (17) "Employer--contributions"--means--payments--to--the
3 retirement--fund--from--appropriations--of--the--state--of--Montana
4 pursuant--to--19-3-801--and--from--contracting--employers--pursuant
5 to--the--contracts--between--them--and--the--board.

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

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

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

24 (21) "Member"--means--any--person--included--in--the
25 membership--of--the--retirement--system--set--forth--in--19-3-401

1 and not excluded in 19-3-402, 19-3-403, or 19-3-406.

2 (22) "Membership service" means service with respect to

3 which normal contributions and employer contributions are

4 paid. A member of the legislature of Montana shall be

5 credited with membership service for that portion of each

6 year for which he pays normal contributions pursuant to

7 subsection (1) of this section.

8 (23) "Normal contributions" means contributions

9 required from members under this chapter and any optional

10 contributions made under the provisions of 19-3-502 and

11 19-3-704.

12 (24) "Pension" means payments for life derived from

13 contributions made from the state controlled funds or in

14 the case of members from contracting employers from the

15 funds of such contracting employers as provided in this

16 chapter.

17 (25) "Prior service" means all service rendered as an

18 employee of the state before July 1, 1945, and all service

19 rendered as an employee of a contracting employer before

20 July 1, 1947. Prior service includes all service rendered

21 prior to July 1, 1945, as a member of the legislative

22 assembly or lieutenant governor of Montana.

23 (26) "Regular interest" means interest at the rate set

24 from time to time by the board.

25 (27) "Retirement" means withdrawal from active service

1 with a retirement allowance granted under the provisions of

2 this chapter.

3 (28) "Retirement allowance" means the periodic benefit

4 payable following service, early or disability retirement.

5 (29) "Retirement fund" means the public employees'

6 retirement account in the agency fund.

7 (30) "Retirement system" means the public employees'

8 retirement system created by this chapter.

9 (31) "Service" means employment of an employee except

10 as provided in 19-3-501 and 19-3-502.

11 (32) "Survivorship allowance" means payments for life

12 to the beneficiary of a deceased member as provided in part

13 12 of this chapter.

14 (33) "Written application" means a written instrument

15 duly executed and filed with the board and containing all

16 information required by the board including such proofs of

17 age as the board considers necessary.

18 Section 2, Section 19-3-401, MCA, is amended to read:

19 "19-3-401. Membership. (1) All permanent full-time

20 and permanent part-time employees shall become members on

21 the first day of employment. Each employee shall file with

22 the board such information affecting his status as a member

23 of the retirement system as the board may require.

24 (2) Every an employee who reenters service shall

25 become a member unless he has had an original election of

1 exemption--from--membership--and--his--service--was--not
 2 interrupted--by--a--break--of--more--than--1--month--A--seasonal
 3 employee--who--has--had--an--original--election--of--exemption--from
 4 membership--will--not--be--subject--to--the--requirement--regarding
 5 the--break--in--service--while--continuing--in--his--original
 6 employment--and--employed--on--a--seasonal--basis--but--upon
 7 termination--of--employment--to--accept--new--employment--or
 8 absence--of--more--than--1--month--in--returning--to--original
 9 employment--in--any--ensuing--season--such--a--seasonal--employee
 10 shall--become--a--member--of--the--retirement--system--upon--reentry.

11 (3)--Time--during--which--an--employee--of--a--school--district
 12 is--absent--from--service--during--official--vacation--shall--be
 13 counted--as--service--in--determining--eligibility--for--membership
 14 under--this--chapter."

15 Section 1. Section 19-3-403, MCA, is amended to read:
 16 "19-3-403. Exclusions. The following persons may not
 17 become members of the retirement system:

18 (1) elective officers who have not filed with the
 19 board written requests to become members, except that a
 20 person so excluded from membership may later become a member
 21 by otherwise becoming an employee or by written request
 22 after a subsequent election to office, and if he
 23 affirmatively exercises the option, the contributions of the
 24 employer because of his membership shall be the same as they
 25 would have been had he not been so excluded;

1 (2) inmates of state institutions who are allowed
 2 compensation for such service as they are able to perform;

3 (3) persons in state institutions principally for the
 4 purpose of training, but who receive compensation;

5 (4) independent contractors, unless there is a written
 6 contract which specifies the creation of an
 7 employer-employee relationship for purposes of retirement
 8 coverage under The Public Employees' Retirement System Act;

9 (5) employees serving in employment which does not
 10 exceed the equivalent of 60 120 working days in any fiscal
 11 year WHO HAVE NOT FILED WITH THE BOARD A WRITTEN REQUEST TO
 12 BECOME MEMBERS. A MEMBER SO EXCLUDED FROM MEMBERSHIP BY THIS
 13 SUBSECTION MAY LATER BECOME A MEMBER BY OTHERWISE BECOMING
 14 AN EMPLOYEE OR BY WRITTEN REQUEST AFTER THE INITIAL DATE OF
 15 EXCLUSION. IF HE AFFIRMATIVELY EXERCISES THE OPTION AND PAYS
 16 THE EMPLOYEE CONTRIBUTION PLUS INTEREST, THE CONTRIBUTIONS
 17 OF THE EMPLOYER, BECAUSE OF HIS MEMBERSHIP, SHALL BE THE
 18 SAME AS THEY WOULD HAVE BEEN HAD HE NOT BEEN SO EXCLUDED
 19 PLUS ACCRUED INTEREST ON ALL EMPLOYER CONTRIBUTIONS FROM THE
 20 DATE THE CONTRIBUTIONS WOULD HAVE BEEN MADE TO THE DATE OF
 21 PAYMENT;

22 (6) employees in service on July 1, 1945, or prior
 23 thereto who filed with the board elections not to become
 24 members, except that a person so excluded from membership
 25 may become a member and be eligible thereafter to receive

1 the same benefits that he would have received if he had
 2 never filed an election not to be a member by meeting the
 3 requirements prescribed in 19-3-505 and 19-3-506;

4 (7) persons directly appointed by the governor who do
 5 not file with the board an election in writing to become
 6 members;

7 (8) persons who are members of any other retirement or
 8 pension system supported wholly or in part by funds of the
 9 United States government, any state government, or political
 10 subdivision thereof and who are receiving credit in the
 11 other system for service, it being the purpose of this
 12 subsection to prevent a person from receiving credit for the
 13 same service in two retirement systems supported wholly or
 14 in part by public funds, except when the service qualifies,
 15 is applied for, and purchased pursuant to 19-3-503. A member
 16 of the retirement system who, because of his employment by
 17 the state, is required to become a member of any other
 18 system described in this subsection shall be considered,
 19 solely for the purposes of making normal contributions, as
 20 permanently separated from service. Exclusion under this
 21 subsection is subject to the following exceptions:

22 (a) When an employer has entered into a collective
 23 bargaining agreement which includes provisions for payments
 24 or contributions by the employer in lieu of wages to a
 25 retirement or pension plan qualified by the internal revenue

1 service for its employees, the employees remain eligible, if
 2 otherwise qualified, for membership in the retirement
 3 system, and the payments or contributions in lieu of wages
 4 may not be considered a part of the employees' compensation
 5 for purposes of computing the employer or employee
 6 contributions to the retirement system.

7 (b) For the purpose of this subsection (8), persons
 8 receiving pensions, retirement allowances, or other payments
 9 from any source on account of employment other than as an
 10 employee as defined in this chapter are not considered,
 11 because of such receipt, members of any other retirement or
 12 pension system.

13 (9) court commissioners or appointive members of any
 14 board or commission who serve the state or any contracting
 15 employer intermittently and who are paid on a per diem
 16 basis;

17 (10) persons who become employees after they have
 18 reached their 60th birthday and have no creditable service
 19 in this system and who do not file with the board an
 20 election to become members;

21 (11) employees of county hospitals or county rest homes
 22 in the sixth and seventh class counties, unless they elect
 23 to file with the board an election in writing to become
 24 members;

25 (12) persons employed by the legislature during the

1 legislative session who do not file with the board an
2 election in writing to become members;

3 (13) students of any public elementary school, high
4 school, vocational-technical center, or community college or
5 any unit of the state university system, except that a
6 person so excluded from membership as a student of a public
7 community college or a unit of the state university system
8 who later becomes a member by otherwise becoming an employee
9 may affirmatively exercise the option of qualifying the
10 service excluded by this subsection by applying to the board
11 in writing within 1 year after becoming a member and become
12 eligible to receive credit for the excluded service under
13 the provisions of 19-3-505;

14 (14) effective October 1, 1978, employees whose
15 positions are funded under the federal Comprehensive
16 Employment and Training Act (CETA) and who file with the
17 board elections not to become members. An employee who
18 exercises his election is considered terminated and is
19 eligible for a refund under 19-3-703, and any employer
20 contributions made on his behalf after October 1, 1978, must
21 be returned to the funding agency. If he is subsequently
22 transferred to non-CETA employment and consequently becomes
23 a member, he may revoke his election within 1 year after the
24 transfer date by filing a written revocation with the board
25 and he will then be eligible to qualify the service

1 previously excluded by this subsection under the provisions
2 of 19-3-505.

3 (15) the chief administrative officer of any city or
4 county where the chief administrative officer has filed an
5 election in writing with the board to be excluded from
6 membership, this election to be filed no later than July 1,
7 1979, or 30 days after initial employment by a county or
8 city whichever is later;

9 ~~(16) persons who are temporary or intermittent~~
10 ~~employees~~ ALL FORMER MEMBERS RECEIVING A RETIREMENT
11 ALLOWANCE OTHER THAN AS A BENEFICIARY SERVING IN EMPLOYMENT
12 IF THAT EMPLOYMENT DOES NOT EXCEED 60 WORKING DAYS IN ANY
13 FISCAL YEAR. THESE FORMER MEMBERS MUST BE REINSTATED INTO
14 MEMBERSHIP ON THE 61ST WORKING DAY IN ANY FISCAL YEAR UNLESS
15 THEY ELECT TO RETURN TO MEMBERSHIP PRIOR TO THAT DAY."

-End-

SENATE BILL NO. 155

INTRODUCED BY KEYSER, McCALLUM

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING MEMBERSHIP IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO PERMANENT FULL-TIME-AND-PERMANENT-PART-TIME--EMPLOYEES--AND--EXECUTING EMPLOYEES-WHO-WORK-LESS-THAN-120-DAYS-IN-ANY-FISCAL-YEAR-AND TEMPORARY--OR-INTERMITTENT BY REQUIRING CERTAIN EMPLOYEES TO AFFIRMATIVELY EXERCISE THE OPTION TO BECOME MEMBERS AND ELIMINATING THE ONE YEAR RULE FOR CERTAIN STUDENT EMPLOYEES; AMENDING SECTIONS 19-3-104, 19-3-401, AND SECTION 19-3-403, MCA."

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

Section 19-3-104 MCA is amended to read:

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

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

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

(3) "Accumulated normal contributions" means the sum

of all the normal contributions standing to the credit of a member's individual account without interest.

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

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

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

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

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

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

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

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

1 (12) "Contracting employer" means any political
2 subdivision or governmental entity which has contracted to
3 come into the system.

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

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

16 (15) "Employee" means any person who is employed by an
17 employer in any capacity whatever and whose salary is paid
18 either by warrant of the employer or from the fees or income
19 of any department or agency of the employer. "Employee"
20 means further any person considered such pursuant to
21 19-3-402.

22 (16) "Employer" means the state of Montana, its
23 university system or any of the colleges, schools,
24 components or units thereof for the purposes of this
25 chapter or any political subdivision or governmental entity

1 which has contracted to come into the system.

2 (17) "Employer contributions" means payments to the
3 retirement fund from appropriations of the state of Montana
4 pursuant to 19-3-801 and from contracting employers pursuant
5 to the contracts between them and the boards.

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

16 (19) "Fiscal year" means any year commencing with duty
17 1 and ending June 30 next following.

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

24 (21) "Member" means any person included in the
25 membership of the retirement system set forth in 19-3-401

1 and not excluded in 19-3-402, 19-3-403, or 19-3-406.

2 (22) "Membership service" means service with respect to

3 which normal contributions and employer contributions are

4 paid. A member of the legislature of Montana shall be

5 credited with membership service for that portion of each

6 year for which he pays normal contributions pursuant to

7 subsection (1) of this section.

8 (23) "Normal contributions" means contributions

9 required from members under this chapter and any optional

10 contributions made under the provisions of 19-3-502 and

11 19-3-704.

12 (24) "Pension" means payments for life derived from

13 contributions made from the state controlled funds or in

14 the case of members from contracting employers from the

15 funds of such contracting employers as provided in this

16 chapter.

17 (25) "Prior service" means all service rendered as an

18 employee of the state before July 1, 1945, and all service

19 rendered as an employee of a contracting employer before

20 July 1, 1947. Prior service includes all service rendered

21 prior to July 1, 1945, as a member of the legislative

22 assembly or lieutenant governor of Montana.

23 (26) "Regular interest" means interest at the rate set

24 from time to time by the board.

25 (27) "Retirement" means withdrawal from active service

1 with a retirement allowance granted under the provisions of

2 this chapter.

3 (28) "Retirement allowance" means the periodic benefit

4 payable following service, early or disability retirement.

5 (29) "Retirement fund" means the public employees'

6 retirement account in the agency funds.

7 (30) "Retirement system" means the public employees'

8 retirement system created by this chapter.

9 (31) "Service" means employment of an employee, except

10 as provided in 19-3-501 and 19-3-502.

11 (32) "Survivorship allowance" means payments for life

12 to the beneficiary of a deceased member as provided in part

13 12 of this chapter.

14 (33) "Written application" means a written instrument

15 duly executed and filed with the board and containing all

16 information required by the board including such proofs of

17 age as the board considers necessary.

18 Section 2, Section 19-3-401, MCA, is amended to read

19 "19-3-401. Membership. (1) All permanent full-time

20 and permanent part-time employees shall become members on

21 the first day of employment. Each employee shall file with

22 the board such information affecting his status as a member

23 of the retirement system as the board may require.

24 (2) Every an employee who reenters service shall

25 become a member unless he has had an original election of

1 exemption--from--membership--and--his--service--was--not
 2 interrupted--by--a--break--of--more--than--1--month--A--seasonal
 3 employee--who--has--had--an--original--election--of--exemption--from
 4 membership--will--not--be--subject--to--the--requirement--regarding
 5 the--break--in--service--while--continuing--in--his--original
 6 employment--and--employed--on--a--seasonal--basis--but--upon
 7 termination--of--employment--to--accept--new--employment--or
 8 absence--of--more--than--1--month--in--returning--to--original
 9 employment--in--any--ensuing--season--such--a--seasonal--employee
 10 shall--become--a--member--of--the--retirement--system--upon--reentry.
 11 (3)--Time--during--which--an--employee--of--a--school--district
 12 is--absent--from--service--during--official--vacation--shall--be
 13 counted--as--service--in--determining--eligibility--for--membership
 14 under--this--chapter."

15 Section 1. Section 19-3-403, MCA, is amended to read:
 16 "19-3-403. Exclusions. The following persons may not
 17 become members of the retirement system:

18 (1) elective officers who have not filed with the
 19 board written requests to become members, except that a
 20 person so excluded from membership may later become a member
 21 by otherwise becoming an employee or by written request
 22 after a subsequent election to office, and if he
 23 affirmatively exercises the option, the contributions of the
 24 employer because of his membership shall be the same as they
 25 would have been had he not been so excluded;

1 (2) inmates of state institutions who are allowed
 2 compensation for such service as they are able to perform;
 3 (3) persons in state institutions principally for the
 4 purpose of training, but who receive compensation;

5 (4) independent contractors, unless there is a written
 6 contract which specifies the creation of an
 7 employer-employee relationship for purposes of retirement
 8 coverage under The Public Employees' Retirement System Act;

9 (5) employees serving in employment which does not
 10 exceed the equivalent of 60 120 working days in any fiscal
 11 year WHO HAVE NOT FILED WITH THE BOARD A WRITTEN REQUEST TO
 12 BECOME MEMBERS. A MEMBER SO EXCLUDED FROM MEMBERSHIP BY THIS
 13 SUBSECTION MAY LATER BECOME A MEMBER BY OTHERWISE BECOMING
 14 AN EMPLOYEE OR BY WRITTEN REQUEST AFTER THE INITIAL DATE OF
 15 EXCLUSION, IF HE AFFIRMATIVELY EXERCISES THE OPTION AND PAYS
 16 THE EMPLOYEE CONTRIBUTION PLUS INTEREST, THE CONTRIBUTIONS
 17 OF THE EMPLOYER, BECAUSE OF HIS MEMBERSHIP, SHALL BE THE
 18 SAME AS THEY WOULD HAVE BEEN HAD HE NOT BEEN SO EXCLUDED
 19 PLUS ACCRUED INTEREST ON ALL EMPLOYER CONTRIBUTIONS FROM THE
 20 DATE THE CONTRIBUTIONS WOULD HAVE BEEN MADE TO THE DATE OF
 21 PAYMENT;

22 (6) employees in service on July 1, 1945, or prior
 23 thereto who filed with the board elections not to become
 24 members, except that a person so excluded from membership
 25 may become a member and be eligible thereafter to receive

1 the same benefits that he would have received if he had
 2 never filed an election not to be a member by meeting the
 3 requirements prescribed in 19-3-505 and 19-3-506;

4 (7) persons directly appointed by the governor who do
 5 not file with the board an election in writing to become
 6 members;

7 (8) persons who are members of any other retirement or
 8 pension system supported wholly or in part by funds of the
 9 United States government, any state government, or political
 10 subdivision thereof and who are receiving credit in the
 11 other system for service, it being the purpose of this
 12 subsection to prevent a person from receiving credit for the
 13 same service in two retirement systems supported wholly or
 14 in part by public funds, except when the service qualifies,
 15 is applied for, and purchased pursuant to 19-3-503. A member
 16 of the retirement system who, because of his employment by
 17 the state, is required to become a member of any other
 18 system described in this subsection shall be considered,
 19 solely for the purposes of making normal contributions, as
 20 permanently separated from service. Exclusion under this
 21 subsection is subject to the following exceptions:

22 (a) When an employer has entered into a collective
 23 bargaining agreement which includes provisions for payments
 24 or contributions by the employer in lieu of wages to a
 25 retirement or pension plan qualified by the internal revenue

1 service for its employees, the employees remain eligible, if
 2 otherwise qualified, for membership in the retirement
 3 system, and the payments or contributions in lieu of wages
 4 may not be considered a part of the employees' compensation
 5 for purposes of computing the employer or employee
 6 contributions to the retirement system.

7 (b) For the purpose of this subsection (8), persons
 8 receiving pensions, retirement allowances, or other payments
 9 from any source on account of employment other than as an
 10 employee as defined in this chapter are not considered,
 11 because of such receipt, members of any other retirement or
 12 pension system.

13 (9) court commissioners or appointive members of any
 14 board or commission who serve the state or any contracting
 15 employer intermittently and who are paid on a per diem
 16 basis;

17 (10) persons who become employees after they have
 18 reached their 60th birthday and have no creditable service
 19 in this system and who do not file with the board an
 20 election to become members;

21 (11) employees of county hospitals or county rest homes
 22 in the sixth and seventh class counties, unless they elect
 23 to file with the board an election in writing to become
 24 members;

25 (12) persons employed by the legislature during the

1 legislative session who do not file with the board an
2 election in writing to become members;

3 (13) students of any public elementary school, high
4 school, vocational-technical center, or community college or
5 any unit of the state university system, except that a
6 person so excluded from membership as a student of a public
7 community college or a unit of the state university system
8 who later becomes a member by otherwise becoming an employee
9 may affirmatively exercise the option of qualifying the
10 service excluded by this subsection by applying to the board
11 in writing within 1 year after becoming a member and become
12 eligible to receive credit for the excluded service under
13 the provisions of 19-3-505;

14 (14) effective October 1, 1978, employees whose
15 positions are funded under the federal Comprehensive
16 Employment and Training Act (CETA) and who file with the
17 board elections not to become members. An employee who
18 exercises his election is considered terminated and is
19 eligible for a refund under 19-3-703, and any employer
20 contributions made on his behalf after October 1, 1978, must
21 be returned to the funding agency. If he is subsequently
22 transferred to non-CETA employment and consequently becomes
23 a member, he may revoke his election within 1 year after the
24 transfer date by filing a written revocation with the board
25 and he will then be eligible to qualify the service

1 previously excluded by this subsection under the provisions
2 of 19-3-505.

3 (15) the chief administrative officer of any city or
4 county where the chief administrative officer has filed an
5 election in writing with the board to be excluded from
6 membership, this election to be filed no later than July 1,
7 1979, or 30 days after initial employment by a county or
8 city whichever is later;

9 ~~(16) persons who are temporary or intermittent~~
10 ~~employees. ALL FORMER MEMBERS RECEIVING A RETIREMENT~~
11 ~~ALLOWANCE OTHER THAN AS A BENEFICIARY SERVING IN EMPLOYMENT~~
12 ~~IF THAT EMPLOYMENT DOES NOT EXCEED 60 WORKING DAYS IN ANY~~
13 ~~FISCAL YEAR. THESE FORMER MEMBERS MUST BE REINSTATED INTO~~
14 ~~MEMBERSHIP ON THE 61ST WORKING DAY IN ANY FISCAL YEAR UNLESS~~
15 ~~THEY ELECT TO RETURN TO MEMBERSHIP PRIOR TO THAT DAY."~~

-End-

SENATE BILL NO. 155

INTRODUCED BY KEYSER, McCALLUM

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING MEMBERSHIP IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO PERMANENT FULL-TIME AND PERMANENT PART-TIME EMPLOYEES AND EXCLUDING EMPLOYEES WHO WORK LESS THAN 120 DAYS IN ANY FISCAL YEAR AND TEMPORARY OR INTERMITTENT BY REQUIRING CERTAIN EMPLOYEES TO AFFIRMATIVELY EXERCISE THE OPTION TO BECOME MEMBERS AND ELIMINATING THE ONE-YEAR RULE FOR CERTAIN STUDENT EMPLOYEES; AMENDING SECTIONS 19-3-104, 19-3-401, AND SECTION 19-3-403, MCA."

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

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

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

(1) "Accumulated additional contributions" means the sum of all the additional contributions standing to the credit of a member's individual account together with the regular interest thereon;

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

(3) "Accumulated normal contributions" means the sum

of all the normal contributions standing to the credit of a member's individual account without interest;

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

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

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

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

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

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

(10) "Board" means the public employees' retirement board provided for in 2-15-1889;

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

1 (12) "Contracting--employer"---means---any---political
2 subdivision--or--governmental--entity--which--has--contracted--to
3 come--into--the--system;

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

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

16 (15) "Employee"---means--any--person--who--is--employed--by--an
17 employer--in--any--capacity--whatever--and--whose--salary---is--paid
18 either--by--warrant--of--the--employer--or--from--the--fees--or--income
19 of--any--department--or--agency--of--the--employer---"Employee"
20 means--further--any--person--considered--such--pursuant---to
21 19-3-402;

22 (16) "Employer"---means---the--state--of--Montana---its
23 university--system--or--any--of--the--colleges---schools---
24 components---or--units--thereof--for--the--purposes--of--this
25 chapter--or--any--political--subdivision--or--governmental--entity

1 which--has--contracted--to--come--into--the--system;

2 (17) "Employer--contributions"---means---payments--to--the
3 retirement--fund--from--appropriations--of--the--state--of--Montana
4 pursuant--to--19-3-801--and--from--contracting--employers--pursuant
5 to--the--contracts--between--them--and--the--board;

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

16 (19) "Fiscal--year"---means--any--year--commencing--with--July
17 1--and--ending--June--30--next--following;

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

24 (21) "Member"---means--any--person---included---in--the
25 membership--of--the--retirement--system--set--forth--in--19-3-401

1 and not excluded in 19-3-482, 19-3-483, or 19-3-486.

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

8 (23) "Normal contributions" means contributions
9 required from members under this chapter and any optional
10 contributions made under the provisions of 19-3-502 and
11 19-3-784.

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

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

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

25 (27) "Retirement" means withdrawal from active service

1 with a retirement allowance granted under the provisions of
2 this chapter.

3 (28) "Retirement allowance" means the periodic benefit
4 payable following service, early or disability retirement.
5 (29) "Retirement fund" means the public employees'
6 retirement account in the agency fund.

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

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

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

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

18 Section 2, Section 19-3-481, MEA, is amended to read
19 "19-3-481. Membership (1) All permanent full-time
20 and permanent part-time employees shall become members on
21 the first day of employment. Each employee shall file with
22 the board such information affecting his status as a member
23 of the retirement system as the board may require.

24 (2) Every an employee who reenters service shall
25 become a member unless he has had an original election of

1 exemption--from--membership--and--his--service--was--not
 2 interrupted--by--a--break--of--more--than--1--month. A seasonal
 3 employee--who--has--had--an--original--election--of--exemption--from
 4 membership--will--not--be--subject--to--the--requirement--regarding
 5 the--break--in--service--while--continuing--in--his--original
 6 employment--and--employed--on--a--seasonal--basis,--but--upon
 7 termination--of--employment--to--accept--new--employment--or
 8 absence--of--more--than--1--month--in--returning--to--original
 9 employment--in--any--ensuing--season,--such--a--seasonal--employee
 10 shall--become--a--member--of--the--retirement--system--upon--reentry,
 11 (3) time--during--which--an--employee--of--a--school--district
 12 is--absent--from--service--during--official--vacation--shall--be
 13 counted--as--service--in--determining--eligibility--for--membership
 14 under--this--chapter."

15 Section 1. Section 19-3-403, MCA, is amended to read:

16 "19-3-403. Exclusions. The following persons may not
 17 become members of the retirement system:

18 (1) elective officers who have not filed with the
 19 board written requests to become members, except that a
 20 person so excluded from membership may later become a member
 21 by otherwise becoming an employee or by written request
 22 after a subsequent election to office, and if he
 23 affirmatively exercises the option, the contributions of the
 24 employer because of his membership shall be the same as they
 25 would have been had he not been so excluded;

1 (2) inmates of state institutions who are allowed
 2 compensation for such service as they are able to perform;

3 (3) persons in state institutions principally for the
 4 purpose of training, but who receive compensation;

5 (4) independent contractors, unless there is a written
 6 contract which specifies the creation of an
 7 employer-employee relationship for purposes of retirement
 8 coverage under The Public Employees' Retirement System Act;

9 (5) employees serving in employment which does not
 10 exceed the equivalent of 60 120 working days in any fiscal
 11 year WHO HAVE NOT FILED WITH THE BOARD A WRITTEN REQUEST TO
 12 BECOME MEMBERS. A MEMBER SO EXCLUDED FROM MEMBERSHIP BY THIS
 13 SUBSECTION MAY LATER BECOME A MEMBER BY OTHERWISE BECOMING
 14 AN EMPLOYEE OR BY WRITTEN REQUEST AFTER THE INITIAL DATE OF
 15 EXCLUSION. IF HE AFFIRMATIVELY EXERCISES THE OPTION AND PAYS
 16 THE EMPLOYEE CONTRIBUTION PLUS INTEREST, THE CONTRIBUTIONS
 17 OF THE EMPLOYER, BECAUSE OF HIS MEMBERSHIP, SHALL BE THE
 18 SAME AS THEY WOULD HAVE BEEN HAD HE NOT BEEN SO EXCLUDED
 19 PLUS ACCRUED INTEREST ON ALL EMPLOYER CONTRIBUTIONS FROM THE
 20 DATE THE CONTRIBUTIONS WOULD HAVE BEEN MADE TO THE DATE OF
 21 PAYMENT;

22 (6) employees in service on July 1, 1945, or prior
 23 thereto who filed with the board elections not to become
 24 members, except that a person so excluded from membership
 25 may become a member and be eligible thereafter to receive

1 the same benefits that he would have received if he had
 2 never filed an election not to be a member by meeting the
 3 requirements prescribed in 19-3-505 and 19-3-506;

4 (7) persons directly appointed by the governor who do
 5 not file with the board an election in writing to become
 6 members;

7 (8) persons who are members of any other retirement or
 8 pension system supported wholly or in part by funds of the
 9 United States government, any state government, or political
 10 subdivision thereof and who are receiving credit in the
 11 other system for service, it being the purpose of this
 12 subsection to prevent a person from receiving credit for the
 13 same service in two retirement systems supported wholly or
 14 in part by public funds, except when the service qualifies,
 15 is applied for, and purchased pursuant to 19-3-503. A member
 16 of the retirement system who, because of his employment by
 17 the state, is required to become a member of any other
 18 system described in this subsection shall be considered,
 19 solely for the purposes of making normal contributions, as
 20 permanently separated from service. Exclusion under this
 21 subsection is subject to the following exceptions:

22 (a) when an employer has entered into a collective
 23 bargaining agreement which includes provisions for payments
 24 or contributions by the employer in lieu of wages to a
 25 retirement or pension plan qualified by the internal revenue

1 service for its employees, the employees remain eligible, if
 2 otherwise qualified, for membership in the retirement
 3 system, and the payments or contributions in lieu of wages
 4 may not be considered a part of the employees' compensation
 5 for purposes of computing the employer or employee
 6 contributions to the retirement system.

7 (b) For the purpose of this subsection (8), persons
 8 receiving pensions, retirement allowances, or other payments
 9 from any source on account of employment other than as an
 10 employee as defined in this chapter are not considered,
 11 because of such receipt, members of any other retirement or
 12 pension system.

13 (9) court commissioners or appointive members of any
 14 board or commission who serve the state or any contracting
 15 employer intermittently and who are paid on a per diem
 16 basis;

17 (10) persons who become employees after they have
 18 reached their 60th birthday and have no creditable service
 19 in this system and who do not file with the board an
 20 election to become members;

21 (11) employees of county hospitals or county rest homes
 22 in the sixth and seventh class counties, unless they elect
 23 to file with the board an election in writing to become
 24 members;

25 (12) persons employed by the legislature during the

1 legislative session who do not file with the board an
2 election in writing to become members;

3 (13) students of any public elementary school, high
4 school, vocational-technical center, or community college or
5 any unit of the state university system, except that a
6 person so excluded from membership as a student of a public
7 community college or a unit of the state university system
8 who later becomes a member by otherwise becoming an employee
9 may affirmatively exercise the option of qualifying the
10 service excluded by this subsection by applying to the board
11 in writing within 1 year after becoming a member and become
12 eligible to receive credit for the excluded service under
13 the provisions of 19-3-505;

14 (14) effective October 1, 1978, employees whose
15 positions are funded under the federal Comprehensive
16 Employment and Training Act (CETA) and who file with the
17 board elections not to become members. An employee who
18 exercises his election is considered terminated and is
19 eligible for a refund under 19-3-703, and any employer
20 contributions made on his behalf after October 1, 1978, must
21 be returned to the funding agency. If he is subsequently
22 transferred to non-CETA employment and consequently becomes
23 a member, he may revoke his election within 1 year after the
24 transfer date by filing a written revocation with the board
25 and he will then be eligible to qualify the service

1 previously excluded by this subsection under the provisions
2 of 19-3-505.

3 (15) the chief administrative officer of any city or
4 county where the chief administrative officer has filed an
5 election in writing with the board to be excluded from
6 membership, this election to be filed no later than July 1,
7 1979, or 30 days after initial employment by a county or
8 city whichever is later;

9 ~~(16) persons who are temporary or intermittent~~
10 ~~employees. ALL FORMER MEMBERS RECEIVING A RETIREMENT~~
11 ~~ALLOWANCE OTHER THAN AS A BENEFICIARY SERVING IN EMPLOYMENT~~
12 ~~IF THAT EMPLOYMENT DOES NOT EXCEED 60 WORKING DAYS IN ANY~~
13 ~~FISCAL YEAR. THESE FORMER MEMBERS MUST BE REINSTATED INTO~~
14 ~~MEMBERSHIP ON THE 61ST WORKING DAY IN ANY FISCAL YEAR UNLESS~~
15 ~~THEY ELECT TO RETURN TO MEMBERSHIP PRIOR TO THAT DAY."~~

-End-