

SENATE BILL NO. 115

INTRODUCED BY MANNING

BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

IN THE SENATE

January 15, 1985	Introduced and referred to Committee on State Administration.
January 24, 1985	Committee recommend bill do pass. Report adopted.
January 25, 1985	Bill printed and placed on members' desks.
January 26, 1985	Second reading, do pass.
January 28, 1985	Considered correctly engrossed.
January 29, 1985	Third reading, passed. Ayes, 46; Noes, 2.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on State Administration.
March 7, 1985	Committee recommend bill be concurrent in. Report adopted.
March 9, 1985	Second reading, concurrent in.
March 12, 1985	Third reading, concurrent in. Returned to Senate.

IN THE SENATE

March 13, 1985

Received from House.

Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. 115
 2 INTRODUCED BY *Richard E. Manning*
 3 BY REQUEST OF THE PUBLIC
 4 EMPLOYEES' RETIREMENT BOARD

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE MANDATORY
 7 AND COMPULSORY RETIREMENT AGE PROVISIONS FROM THE PUBLIC LAW
 8 ENFORCEMENT AND THE MONTANA FIREFIGHTERS' UNIFIED RETIREMENT
 9 SYSTEMS; CLARIFYING THE RETIREMENT DATE FOR THE
 10 FIREFIGHTERS' SYSTEM; AMENDING SECTIONS 19-6-101, 19-7-501,
 11 19-8-601, 19-9-104, 19-9-801, 19-9-802, 19-9-804, 19-10-401,
 12 19-10-403, 19-10-501, 19-13-701, AND 19-13-704, MCA;
 13 REPEALING SECTIONS 19-6-504, 19-9-803, 19-13-702, AND
 14 19-13-703, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 Section 1. Section 19-6-101, MCA, is amended to read:
 18 "19-6-101. Definitions. Unless the context requires
 19 otherwise, the following definitions apply in this chapter:

20 (1) "Account" means the Montana highway patrolmen's
 21 retirement pension trust fund.

22 (2) "Accumulated deductions" means the total of the
 23 amounts deducted from the salary of a member, paid into the
 24 account, and standing to his credit in the account, together
 25 with the regular interest thereon.

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

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

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

10 ~~{6}--"Compulsory retirement age"--means 60 years of age.~~

11 ~~{7}{6}~~ "Department" means the public employees'
 12 retirement division of the department of administration.

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



1 month's compensation.

2 ~~(9)~~(8) "Member" means a person who has accumulated
3 deductions in the account standing to his credit.

4 ~~(10)~~(9) "Member's annuity" means payments for life
5 derived from contributions made by the member.

6 ~~(11)~~(10) Retired patrolman" means a person in receipt
7 of a retirement allowance under this chapter.

8 ~~(12)~~(11) "Retirement age" means the age at which a
9 member retires after 25 years of creditable service with the
10 Montana highway patrol ~~or 60 years of age, whichever occurs~~
11 ~~first.~~

12 ~~(13)~~(12) "Retirement allowance" means the state annuity
13 plus the member's annuity.

14 ~~(14)~~(13) "State annuity" means payments for life
15 derived from contributions made by the state of Montana."

16 Section 2. Section 19-7-501, MCA, is amended to read:

17 "19-7-501. Eligibility and application for service
18 retirement -- commencement of allowance. (1) A sheriff in
19 service who has completed at least 25 years of service and
20 who has reached the age of 55 years may retire on a service
21 retirement allowance upon written application to the board,
22 submitted not less than 30 days or more than 90 days from
23 the desired date of retirement.

24 ~~(2) Retirement is compulsory for any nonelected~~
25 ~~sheriff at age 65 except in the case of undersheriffs.~~

1 ~~(3)~~(2) The retirement allowance must commence on the
2 first day of the month following the member's last day of
3 membership service."

4 Section 3. Section 19-8-601, MCA, is amended to read:

5 "19-8-601. Time of retirement -- commencement of
6 allowance. (1) Any member in service who has completed at
7 least 20 years of creditable service and who has reached the
8 age of 55 years may retire on service retirement allowance
upon written application to the board setting forth at what
10 time, not less than 30 days or more than 90 days subsequent
11 to the filing thereof, he desires to be retired.

12 ~~(2) Retirement shall be compulsory at age 60.~~

13 ~~(3)~~(2) The retirement allowance must commence on the
14 first day of the month following the member's last day of
15 covered employment."

16 Section 4. Section 19-9-104, MCA, is amended to read:

17 "19-9-104. Definitions. Unless the context requires
18 otherwise, the following definitions apply in this chapter:

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

21 (2) "Base salary" means the sum of the monthly
22 compensations for each month in a given calendar year.

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

25 (4) "Credited service" means the aggregate of a

1 member's prior service and membership service.
 2 (5) "Dependent child" means a child of a deceased
 3 member:
 4 (a) who is unmarried and under 18 years of age; or
 5 (b) who is unmarried, under 24 years of age, and
 6 attending an accredited postsecondary educational
 7 institution as a full-time student in anticipation of
 8 receiving a certificate or degree.
 9 (6) "Employer" means any city which participated in a
 10 prior plan or which elects to join this plan under 19-9-107.
 11 (7) "Employer annuity" means monthly payments for life
 12 derived from employer and state contributions.
 13 (8) "Final average salary" means the monthly
 14 compensation of a member, averaged over the last 36 months
 15 of his active service or, in the event he has not been a
 16 member that long, over the period of his membership.
 17 (9) "Fund" means the pension trust fund in the
 18 treasury system designated for the use of the plan.
 19 ~~{10}-"Mandatory-retirement-date"-means-the-first-day-of~~
 20 ~~the--month-coinciding-with-or-immediately-following,-if-none~~
 21 ~~coincides,-the-date-on-which-a-member-attains-age-65-~~
 22 {11}{10} "Member" means a person who is employed by an
 23 employer as a police officer or who is entitled to a
 24 retirement allowance by virtue of his service to an employer
 25 as a police officer.

1 {12}{11} "Member contributions" means the total of the
 2 deductions from the compensation of a member, either made
 3 during a period of active membership hereunder or made under
 4 a prior plan and transferred to this plan, standing to his
 5 credit, together with the interest thereon.
 6 {13}{12} "Member's annuity" means monthly payments for
 7 life derived from member contributions.
 8 {14}{13} "Membership service" means a period of
 9 employment with an employer occurring after June 30, 1977,
 10 during which the withholdings required by this chapter 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 {15}{14} "Minimum retirement date" or "normal
 17 retirement date" means the first day of the month coinciding
 18 with or immediately following, if none coincides, the date
 19 on which a member becomes both age 50 or older and completes
 20 20 or more years of credited service.
 21 {16}{15} "Monthly compensation" means the wage,
 22 excluding overtime, holiday payments, shift differential
 23 payments, compensation time payments, and payments in lieu
 24 of sick leave and annual leave, a member receives as an
 25 active police officer.

1 ~~(17)~~(16) Any reference to "municipality", "city", or
 2 "town" includes those jurisdictions which, prior to the
 3 effective date of a county-municipal consolidation, were
 4 incorporated municipalities, subsequent districts created
 5 for urban law enforcement services, or the entire county
 6 included in the county-municipal consolidation.

7 ~~(18)~~(17) "Plan" means the municipal police officers'
 8 retirement system created by this chapter.

9 ~~(19)~~(18) "Police officer" means a law enforcement
 10 officer employed by an employer.

11 ~~(20)~~(19) "Prior plan" means the local police reserve or
 12 retirement fund of a city which elects to join the plan
 13 under 19-9-107 or the statewide police reserve fund
 14 administered by the department of administration in
 15 accordance with Chapter 335, Laws of 1974.

16 ~~(21)~~(20) "Prior service" means a period of employment
 17 as a police officer for which credit was granted to a member
 18 under a prior plan and has been transferred to this plan.

19 ~~(22)~~(21) "Retirement allowance" means the employer
 20 annuity plus the member's annuity.

21 ~~(23)~~(22) "Retirement date" means the date on which the
 22 first payment of the retirement, disability, or survivor
 23 benefits of a member or a beneficiary is payable.

24 ~~(24)~~(23) "Surviving spouse" means the spouse married to
 25 a member at the time of the member's death.

1 ~~(25)~~(24) "Totally and permanently disabled" means that
 2 the board, upon certification by a licensed and practicing
 3 physician, has determined that a member's disability is of
 4 such a nature as to permanently impair his ability to
 5 discharge his normal duties as a police officer."

6 Section 5. Section 19-9-801, MCA, is amended to read:
 7 "19-9-801. Eligibility for service retirement --
 8 commencement of allowance. Members are eligible for
 retirement and shall retire as provided in this section:

10 (1) A member who was employed by an employer as a
 11 police officer on July 1, 1975, is eligible to receive a
 12 service retirement allowance when he has completed 20 years
 13 or more in the aggregate as a probationary officer, a
 14 regular officer, or a special officer, in any capacity or
 15 rank.

16 (2) A member who was or is first employed by an
 17 employer as a police officer after July 1, 1975, is eligible
 18 to receive a service retirement allowance when he has
 19 reached the age of 50 and has completed 20 years or more in
 20 the aggregate as a probationary officer, a regular officer,
 21 or a special officer, in any capacity or rank.

22 ~~(3) --Police--officers--whether--first--employed--before--or--~~
 23 ~~after--July--1--1975--who--reach--the--age--of--65--while--in--active~~
 24 ~~service--shall--retire--~~

25 ~~(4)~~(3) The retirement allowance must commence on the

1 first day of the month following the member's last day of
2 membership service."

3 Section 6. Section 19-9-802, MCA, is amended to read:

4 "19-9-802. Election to serve additional years. (1) A
5 police officer who is eligible for service retirement under
6 19-9-801(1) or (2) may retire as of the time he becomes
7 eligible or may elect to serve an additional 1 to 10 years
8 as an active police officer, ~~except that he may not elect to~~
9 ~~serve past his 65th birthday, the mandatory retirement date.~~

10 (2) A police officer whose eligibility depends on
11 19-9-801(2) and who completes 20 years of service before
12 reaching the age of 50 is considered to have elected to
13 serve an additional year for each year between the
14 completion of his 20th year of service and his 50th birthday
15 and shall be paid the additional 1%, as prescribed in
16 19-9-804(2), for each such year."

17 Section 7. Section 19-9-804, MCA, is amended to read:

18 "19-9-804. Amount of retirement allowance. (1) A
19 police officer who is eligible under subsection (1) or (2)
20 of 19-9-801 and does not elect to serve any additional years
21 as an active police officer ~~or who is retired under~~
22 ~~19-9-801(3) prior to reaching 20 years of service~~ shall
23 receive a service retirement allowance equal to one-half his
24 final average salary.

25 (2) A police officer who is eligible for service

1 retirement after 20 years of service and who elects to serve
2 additional years shall receive the allowance provided for in
3 subsection (1) plus an additional 1% of such allowance per
4 year of additional service, up to a maximum of 60% of the
5 final average salary.

6 ~~(3) A police officer who is retired under 19-9-801(3)~~
7 ~~and who was theretofore eligible at his option to be retired~~
8 ~~under subsection (1) or (2) of 19-9-801 but elected to serve~~
9 ~~additional years shall be paid for the additional years over~~
10 ~~his original eligibility at the rate prescribed in~~
11 ~~subsection (2)."~~

12 Section 8. Section 19-10-401, MCA, is amended to read:

13 "19-10-401. Eligibility for service retirement. The
14 following persons are eligible for the police retired list
15 of a city and shall retire as provided in this section:

16 (1) A person who is employed by any city as a police
17 officer on July 1, 1975, is eligible for the police retired
18 list when he has completed 20 years or more in the aggregate
19 as a probationary officer, a regular officer, or a special
20 officer of the police department, in any capacity or rank.

21 (2) A person who is first employed by a city as a
22 police officer after July 1, 1975, is eligible for the
23 police retired list when he has reached the age of 50 and
24 has completed 20 years or more in the aggregate as a
25 probationary officer, a regular officer, or a special

1 officer of the police department, in any capacity or rank.

2 ~~{3}--Police--officers, whether first employed before or~~
 3 ~~after July 17, 1975, who reach the age of 65 while in active~~
 4 ~~service shall pass from the active list to the retired~~
 5 ~~list."~~

6 Section 9. Section 19-10-403, MCA, is amended to read:

7 "19-10-403. Option of officer to remain on active
 8 list. (1) A police officer who is eligible for the retired
 9 list under subsection (1) or (2) of 19-10-401 may transfer,
 10 as of the time he becomes eligible, to the retired list or
 11 may elect to serve an additional 1 to 10 years as an active
 12 police officer, ~~except that he may not elect to serve past~~
 13 ~~his 65th birthday.~~

14 (2) A police officer whose eligibility depends on
 15 19-10-401(2) and who completes 20 years of service before
 16 reaching the age of 50 is considered to have elected to
 17 serve an additional year for each year between the
 18 completion of his 20th year of service and his 50th
 19 birthday, and he shall be paid the additional 1% for each
 20 such year."

21 Section 10. Section 19-10-501, MCA, is amended to
 22 read:

23 "19-10-501. Service retirement allowance. When a
 24 police officer is transferred from the active list to the
 25 retired list of a city, he shall thereafter receive monthly

1 payments from the city's police retirement fund, as follows:

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

11 (2) A police officer who is eligible after 20 years of
 12 service and who elects to serve additional years shall
 13 receive the payment provided for in subsection (1) plus an
 14 additional 1% of such payment per year of additional
 15 service, up to a maximum of 60% of the base salary,
 16 excluding overtime and payments in lieu of sick leave and
 17 annual leave, he was receiving as an active officer computed
 18 on the highest salary received in any one month during his
 19 last year of active service.

20 ~~{3}--A police officer who is placed on the retired list~~
 21 ~~under 19-10-401(3) and who was theretofore eligible at his~~
 22 ~~option to be placed on the retired list under 19-10-401(1)~~
 23 ~~or (2) but elected to serve additional years shall be paid~~
 24 ~~for the additional years over his original eligibility at~~
 25 ~~the rate prescribed in subsection (2) of this section."~~

1 Section 11. Section 19-13-701, MCA, is amended to
2 read:

3 "19-13-701. Eligibility for service retirement --
4 commencement of allowance. (1) ~~The following members are~~
5 ~~eligible for service retirement:~~

6 ~~(a) -- a~~ A member who has reached age 50 and has
7 completed 10 years or more in the aggregate as a firefighter
8 in any capacity or rank;

9 ~~(b) -- a member who has reached mandatory retirement age~~
10 ~~under 19-13-702 regardless of his number of years of~~
11 ~~service. is eligible for service~~

12 ~~(2) -- The retirement allowance must commence commencing~~
13 on the first day of the month following the member's last
14 day of membership service.

15 (2) A member who terminates active service before age
16 50 and keeps his contributions on deposit under 19-13-304 is
17 eligible for service retirement commencing on the first day
18 of the month coinciding with or immediately following, if
19 none coincides, the date on which he reaches age 50."

20 Section 12. Section 19-13-704, MCA, is amended to
21 read:

22 "19-13-704. Amount of retirement allowance. (1) (a) A
23 member hired before July 1, 1981, who is eligible under
24 19-13-701~~(1)~~ and who elects to retire after completing 20
25 years of service and reaching age 50 as an active

1 firefighter shall receive a service retirement allowance
2 equal to one-half the monthly compensation last received by
3 the member for his service as an active firefighter. A
4 member who completes more than 20 years of service shall
5 receive an additional 1% of his final monthly compensation
6 for each year in excess of 20, up to a maximum of 60% of the
7 monthly compensation last received by the member.

8 (b) A member hired before July 1, 1981, who is
9 eligible under 19-13-701~~(1)~~ and who elects to retire after
10 completing 10 years or more of service but has not both
11 completed 20 years of service and reached age 50 as an
12 active firefighter shall receive a service retirement
13 allowance equal to 2% of the monthly compensation last
14 received by the member for each year of service up to a
15 maximum of 60% of his final monthly salary.

16 (i) If the member dies after he is permanently
17 separated from service and before he both reaches age 50 and
18 completes 20 years of service as an active firefighter, the
19 allowance prescribed in subsection (1)(b) must be made to
20 the surviving spouse beginning on the date the firefighter
21 would have both reached his 50th birthday and completed 20
22 years of service as an active firefighter and terminating
23 upon the surviving spouse's death or remarriage. If there is
24 no surviving spouse or if the surviving spouse dies or
25 remarries and if the firefighter leaves one or more

1 dependent children, the children are entitled to receive the
2 allowance as long as they remain dependent as defined in
3 19-13-104.

4 (ii) If the firefighter dies after he both reaches age
5 50 and completes 20 years of service as an active
6 firefighter, the payments must be made to the surviving
7 spouse or children as provided in subsection (1)(b)(i).

8 (2) A member hired on or after July 1, 1981, who:
9 ~~(a)~~ is eligible under 19-13-701~~(1)~~ shall receive a
10 service retirement allowance equal to 2% of his final
11 average salary for each year of service up to a maximum of
12 30 years of service;

13 ~~(b) is eligible under 19-13-701(2) shall receive a~~
14 ~~service retirement allowance equal to one-half his final~~
15 ~~average salary;~~

16 ~~(c) is retired under 19-13-701(2) and who was~~
17 ~~theretofore eligible at his option to be retired under~~
18 ~~19-13-701(1) but elected to serve additional years shall be~~
19 ~~paid for the additional years over his original eligibility~~
20 ~~at the rate prescribed in subsection (2)(a)."~~

21 NEW SECTION. Section 13. Repealer. Sections 19-6-504,
22 19-9-803, 19-13-702, and 19-13-703, MCA, are repealed.

23 NEW SECTION. Section 14. Extension of authority. Any
24 existing authority of the public employees' retirement board
25 to make rules on the subject of the provisions of this act

1 is extended to the provisions of this act.

2 NEW SECTION. Section 15. Effective date. This act is
3 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

1 *Senate* BILL NO. 115
2 INTRODUCED BY *Richard Manning*
3 BY REQUEST OF THE PUBLIC
4 EMPLOYEES' RETIREMENT BOARD

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23 amounts deducted from the salary of a member, paid into the
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25 with the regular interest thereon.

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2 value when computed on the basis of the actuarial tables in
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6 designation, duly acknowledged and filed with the
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8 (5) "Board" means the public employees' retirement
9 board provided for in 2-15-1009.

10 ~~†6†--"Compulsory-retirement-age"--means-60-years-of-age-~~

11 ~~†7†~~(6) "Department" means the public employees'
12 retirement division of the department of administration.

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



1 month's compensation.

2 {9}(8) "Member" means a person who has accumulated
3 deductions in the account standing to his credit.

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5 derived from contributions made by the member.

6 {11}(10) "Retired patrolman" means a person in receipt
7 of a retirement allowance under this chapter.

8 {12}(11) "Retirement age" means the age at which a
9 member retires after 25 years of creditable service with the
10 Montana highway patrol or 60-years-of-age, whichever occurs
11 first.

12 {13}(12) "Retirement allowance" means the state annuity
13 plus the member's annuity.

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15 derived from contributions made by the state of Montana."

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18 retirement -- commencement of allowance. (1) A sheriff in
19 service who has completed at least 25 years of service and
20 who has reached the age of 55 years may retire on a service
21 retirement allowance upon written application to the board,
22 submitted not less than 30 days or more than 90 days from
23 the desired date of retirement.

24 {2}--Retirement--is--compulsory--for--any--nonsheriff
25 sheriff-at-age-65,-except-in-the-case-of-unassheriffs:

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2 first day of the month following the member's last day of
3 membership service."

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9 upon written application to the board setting forth at what
10 time, not less than 30 days or more than 90 days subsequent
11 to the filing thereof, he desires to be retired.

12 {2}--Retirement-shall-be-compulsory-at-age-60-

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16 Section 4. Section 19-9-104, MCA, is amended to read:

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22 compensations for each month in a given calendar year.

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

25 (4) "Credited service" means the aggregate of a

1 member's prior service and membership service.

2 (5) "Dependent child" means a child of a deceased
3 member:

4 (a) who is unmarried and under 18 years of age; or

5 (b) who is unmarried, under 24 years of age, and
6 attending an accredited postsecondary educational
7 institution as a full-time student in anticipation of
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14 compensation of a member, averaged over the last 36 months
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7 life derived from member contributions.

8 ~~{14}{13}~~ "Membership service" means a period of
9 employment with an employer occurring after June 30, 1977,
10 during which the withholdings required by this chapter 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 ~~{15}{14}~~ "Minimum retirement date" or "normal
17 retirement date" means the first day of the month coinciding
18 with or immediately following, if none coincides, the date
19 on which a member becomes both age 50 or older and completes
20 20 or more years of credited service.

21 ~~{16}{15}~~ "Monthly compensation" means the wage,
22 excluding overtime, holiday payments, shift differential
23 payments, compensation time payments, and payments in lieu
24 of sick leave and annual leave, a member receives as an
25 active police officer.

1 ~~17~~(16) Any reference to "municipality", "city", or
 2 "town" includes those jurisdictions which, prior to the
 3 effective date of a county-municipal consolidation, were
 4 incorporated municipalities, subsequent districts created
 5 for urban law enforcement services, or the entire county
 6 included in the county-municipal consolidation.

7 ~~18~~(17) "Plan" means the municipal police officers'
 8 retirement system created by this chapter.

9 ~~19~~(18) "Police officer" means a law enforcement
 10 officer employed by an employer.

11 ~~20~~(19) "Prior plan" means the local police reserve or
 12 retirement fund of a city which elects to join the plan
 13 under 19-9-107 or the statewide police reserve fund
 14 administered by the department of administration in
 15 accordance with Chapter 335, Laws of 1974.

16 ~~21~~(20) "Prior service" means a period of employment
 17 as a police officer for which credit was granted to a member
 18 under a prior plan and has been transferred to this plan.

19 ~~22~~(21) "Retirement allowance" means the employer
 20 annuity plus the member's annuity.

21 ~~23~~(22) "Retirement date" means the date on which the
 22 first payment of the retirement, disability, or survivor
 23 benefits of a member or a beneficiary is payable.

24 ~~24~~(23) "Surviving spouse" means the spouse married to
 25 a member at the time of the member's death.

1 ~~25~~(24) "Totally and permanently disabled" means that
 2 the board, upon certification by a licensed and practicing
 3 physician, has determined that a member's disability is of
 4 such a nature as to permanently impair his ability to
 5 discharge his normal duties as a police officer."

6 Section 5. Section 19-9-801, MCA, is amended to read:
 7 "19-9-801. Eligibility for service retirement --
 8 commencement of allowance. Members are eligible for
 9 retirement and shall retire as provided in this section:

10 (1) A member who was employed by an employer as a
 11 police officer on July 1, 1975, is eligible to receive a
 12 service retirement allowance when he has completed 20 years
 13 or more in the aggregate as a probationary officer, a
 14 regular officer, or a special officer, in any capacity or
 15 rank.

16 (2) A member who was or is first employed by an
 17 employer as a police officer after July 1, 1975, is eligible
 18 to receive a service retirement allowance when he has
 19 reached the age of 50 and has completed 20 years or more in
 20 the aggregate as a probationary officer, a regular officer,
 21 or a special officer, in any capacity or rank.

22 ~~(3) --Police--officers,--whether--first--employed--before--or~~
 23 ~~after--July--1,--1975,--who--reach--the--age--of--65--while--in--active~~
 24 ~~service--shall--retire.~~

25 ~~(4)~~(3) The retirement allowance must commence on the

1 first day of the month following the member's last day of
2 membership service."

3 Section 6. Section 19-9-802, MCA, is amended to read:

4 "19-9-802. Election to serve additional years. (1) A
5 police officer who is eligible for service retirement under
6 19-9-801(1) or (2) may retire as of the time he becomes
7 eligible or may elect to serve an additional 1 to 10 years
8 as an active police officer, ~~except that he may not elect to~~
9 ~~serve past his 65th birthday, the mandatory retirement date.~~

10 (2) A police officer whose eligibility depends on
11 19-9-801(2) and who completes 20 years of service before
12 reaching the age of 50 is considered to have elected to
13 serve an additional year for each year between the
14 completion of his 20th year of service and his 50th birthday
15 and shall be paid the additional 1%, as prescribed in
16 19-9-804(2), for each such year."

17 Section 7. Section 19-9-804, MCA, is amended to read:

18 "19-9-804. Amount of retirement allowance. (1) A
19 police officer who is eligible under subsection (1) or (2)
20 of 19-9-801 and does not elect to serve any additional years
21 as an active police officer ~~or who is retired under~~
22 ~~19-9-801(3) prior to reaching 20 years of service~~ shall
23 receive a service retirement allowance equal to one-half his
24 final average salary.

25 (2) A police officer who is eligible for service

1 retirement after 20 years of service and who elects to serve
2 additional years shall receive the allowance provided for in
3 subsection (1) plus an additional 1% of such allowance per
4 year of additional service, up to a maximum of 60% of the
5 final average salary.

6 ~~{3}--A--police-officer-who-is-retired-under-19-9-801{3}~~
7 ~~and-who-was-theretofore-eligible-at-his-option-to-be-retired~~
8 ~~under-subsection-{1}-or-{2}-of-19-9-801-but-elected-to-serve~~
9 ~~additional-years-shall-be-paid-for-the-additional-years-over~~
10 ~~his--original--eligibility--at--the---rate---prescribed---in~~
11 ~~subsection-{2};"~~

12 Section 8. Section 19-10-401, MCA, is amended to read:

13 "19-10-401. Eligibility for service retirement. The
14 following persons are eligible for the police retired list
15 of a city and shall retire as provided in this section:

16 (1) A person who is employed by any city as a police
17 officer on July 1, 1975, is eligible for the police retired
18 list when he has completed 20 years or more in the aggregate
19 as a probationary officer, a regular officer, or a special
20 officer of the police department, in any capacity or rank.

21 (2) A person who is first employed by a city as a
22 police officer after July 1, 1975, is eligible for the
23 police retired list when he has reached the age of 50 and
24 has completed 20 years or more in the aggregate as a
25 probationary officer, a regular officer, or a special

1 officer of the police department, in any capacity or rank.

2 ~~(3) Police officers, whether first employed before or~~
 3 ~~after July 17, 1975, who reach the age of 65 while in active~~
 4 ~~service shall pass from the active list to the retired~~
 5 ~~list."~~

6 Section 9. Section 19-10-403, MCA, is amended to read:

7 "19-10-403. Option of officer to remain on active
 8 list. (1) A police officer who is eligible for the retired
 9 list under subsection (1) or (2) of 19-10-401 may transfer,
 10 as of the time he becomes eligible, to the retired list or
 11 may elect to serve an additional 1 to 10 years as an active
 12 police officer, ~~except that he may not elect to serve past~~
 13 ~~his 65th birthday.~~

14 (2) A police officer whose eligibility depends on
 15 19-10-401(2) and who completes 20 years of service before
 16 reaching the age of 50 is considered to have elected to
 17 serve an additional year for each year between the
 18 completion of his 20th year of service and his 50th
 19 birthday, and he shall be paid the additional 1% for each
 20 such year."

21 Section 10. Section 19-10-501, MCA, is amended to
 22 read:

23 "19-10-501. Service retirement allowance. When a
 24 police officer is transferred from the active list to the
 25 retired list of a city, he shall thereafter receive monthly

1 payments from the city's police retirement fund, as follows:

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

11 (2) A police officer who is eligible after 20 years of
 12 service and who elects to serve additional years shall
 13 receive the payment provided for in subsection (1) plus an
 14 additional 1% of such payment per year of additional
 15 service, up to a maximum of 60% of the base salary,
 16 excluding overtime and payments in lieu of sick leave and
 17 annual leave, he was receiving as an active officer computed
 18 on the highest salary received in any one month during his
 19 last year of active service.

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

1 Section 11. Section 19-13-701, MCA, is amended to
2 read:

3 "19-13-701. Eligibility for service retirement --
4 commencement of allowance. (1) ~~The following members are~~
5 ~~eligible for service retirement:~~

6 ~~(a) -- a A member who has reached age 50 and has~~
7 ~~completed 10 years or more in the aggregate as a firefighter~~
8 ~~in any capacity or rank;~~

9 ~~(b) -- a member who has reached mandatory retirement age~~
10 ~~under 19-13-702 regardless of his number of years of~~
11 ~~service; is eligible for service~~

12 ~~(2) -- The retirement allowance must commence commencing~~
13 ~~on the first day of the month following the member's last~~
14 ~~day of membership service.~~

15 (2) A member who terminates active service before age
16 50 and keeps his contributions on deposit under 19-13-304 is
17 eligible for service retirement commencing on the first day
18 of the month coinciding with or immediately following, if
19 none coincides, the date on which he reaches age 50."

20 Section 12. Section 19-13-704, MCA, is amended to
21 read:

22 "19-13-704. Amount of retirement allowance. (1) (a) A
23 member hired before July 1, 1981, who is eligible under
24 19-13-701~~(1)~~ and who elects to retire after completing 20
25 years of service and reaching age 50 as an active

1 firefighter shall receive a service retirement allowance
2 equal to one-half the monthly compensation last received by
3 the member for his service as an active firefighter. A
4 member who completes more than 20 years of service shall
5 receive an additional 1% of his final monthly compensation
6 for each year in excess of 20, up to a maximum of 60% of the
7 monthly compensation last received by the member.

8 (b) A member hired before July 1, 1981, who is
9 eligible under 19-13-701~~(1)~~ and who elects to retire after
10 completing 10 years or more of service but has not both
11 completed 20 years of service and reached age 50 as an
12 active firefighter shall receive a service retirement
13 allowance equal to 2% of the monthly compensation last
14 received by the member for each year of service up to a
15 maximum of 60% of his final monthly salary.

16 (i) If the member dies after he is permanently
17 separated from service and before he both reaches age 50 and
18 completes 20 years of service as an active firefighter, the
19 allowance prescribed in subsection (1)(b) must be made to
20 the surviving spouse beginning on the date the firefighter
21 would have both reached his 50th birthday and completed 20
22 years of service as an active firefighter and terminating
23 upon the surviving spouse's death or remarriage. If there is
24 no surviving spouse or if the surviving spouse dies or
25 remarries and if the firefighter leaves one or more

1 dependent children, the children are entitled to receive the
2 allowance as long as they remain dependent as defined in
3 19-13-104.

4 (ii) If the firefighter dies after he both reaches age
5 50 and completes 20 years of service as an active
6 firefighter, the payments must be made to the surviving
7 spouse or children as provided in subsection (1)(b)(i).

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

9 ~~(a)~~ is eligible under 19-13-701~~(1)~~ shall receive a
10 service retirement allowance equal to 2% of his final
11 average salary for each year of service up to a maximum of
12 30 years of service;

13 ~~(b)--is-eligible-under--19-13-701(2)--shall--receive--a~~
14 ~~service--retirement--allowance--equal--to-one-half-his-final~~
15 ~~average-salary;~~

16 ~~(c)--is--retired--under--19-13-701(2)--and--who--was~~
17 ~~theretofore--eligible--at--his--option--to--be-retired-under~~
18 ~~19-13-701(1)--but-elected-to-serve-additional-years-shall--be~~
19 ~~paid--for-the-additional-years-over-his-original-eligibility~~
20 ~~at-the-rate-prescribed-in-subsection-(2)(a)."~~

21 NEW SECTION. Section 13. Repealer. Sections 19-6-504,
22 19-9-803, 19-13-702, and 19-13-703, MCA, are repealed.

23 NEW SECTION. Section 14. Extension of authority. Any
24 existing authority of the public employees' retirement board
25 to make rules on the subject of the provisions of this act

1 is extended to the provisions of this act.

2 NEW SECTION. Section 15. Effective date. This act is
3 effective on passage and approval.

-End-

1 Senate BILL NO. 115
 2 INTRODUCED BY Richard E. Manning
 3 BY REQUEST OF THE PUBLIC
 4 EMPLOYEES' RETIREMENT BOARD

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE MANDATORY
 7 AND COMPULSORY RETIREMENT AGE PROVISIONS FROM THE PUBLIC LAW
 8 ENFORCEMENT AND THE MONTANA FIREFIGHTERS' UNIFIED RETIREMENT
 9 SYSTEMS; CLARIFYING THE RETIREMENT DATE FOR THE
 10 FIREFIGHTERS' SYSTEM; AMENDING SECTIONS 19-6-101, 19-7-501,
 11 19-8-601, 19-9-104, 19-9-801, 19-9-802, 19-9-804, 19-10-401,
 12 19-10-403, 19-10-501, 19-13-701, AND 19-13-704, MCA;
 13 REPEALING SECTIONS 19-6-504, 19-9-803, 19-13-702, AND
 14 19-13-703, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
 15

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

17 Section 1. Section 19-6-101, MCA, is amended to read:
 18 "19-6-101. Definitions. Unless the context requires
 19 otherwise, the following definitions apply in this chapter:

20 (1) "Account" means the Montana highway patrolmen's
 21 retirement pension trust fund.

22 (2) "Accumulated deductions" means the total of the
 23 amounts deducted from the salary of a member, paid into the
 24 account, and standing to his credit in the account, together
 25 with the regular interest thereon.

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

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

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

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

11 ~~(7)~~(6) "Department" means the public employees'
 12 retirement division of the department of administration.

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



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 THIRD READING
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1 month's compensation.

2 ~~(9)~~(8) "Member" means a person who has accumulated
3 deductions in the account standing to his credit.

4 ~~(10)~~(9) "Member's annuity" means payments for life
5 derived from contributions made by the member.

6 ~~(11)~~(10) "Retired patrolman" means a person in receipt
7 of a retirement allowance under this chapter.

8 ~~(12)~~(11) "Retirement age" means the age at which a
9 member retires after 25 years of creditable service with the
10 Montana highway patrol ~~or-60-years-of-age,-whichever-occurs~~
11 first.

12 ~~(13)~~(12) "Retirement allowance" means the state annuity
13 plus the member's annuity.

14 ~~(14)~~(13) "State annuity" means payments for life
15 derived from contributions made by the state of Montana."

16 Section 2. Section 19-7-501, MCA, is amended to read:

17 "19-7-501. Eligibility and application for service
18 retirement -- commencement of allowance. (1) A sheriff in
19 service who has completed at least 25 years of service and
20 who has reached the age of 55 years may retire on a service
21 retirement allowance upon written application to the board,
22 submitted not less than 30 days or more than 90 days from
23 the desired date of retirement.

24 ~~(2)--Retirement--is--compulsory--for--any--nonslected~~
25 ~~sheriff-at-age-65,-except-in-the-case-of-undersheriffs-~~

1 ~~(3)~~(2) The retirement allowance must commence on the
2 first day of the month following the member's last day of
3 membership service."

4 Section 3. Section 19-8-601, MCA, is amended to read:

5 "19-8-601. Time of retirement -- commencement of
6 allowance. (1) Any member in service who has completed at
7 least 20 years of creditable service and who has reached the
8 age of 55 years may retire on service retirement allowance
9 upon written application to the board setting forth at what
10 time, not less than 30 days or more than 90 days subsequent
11 to the filing thereof, he desires to be retired.

12 ~~(2)--Retirement-shall-be-compulsory-at-age-60-~~

13 ~~(3)~~(2) The retirement allowance must commence on the
14 first day of the month following the member's last day of
15 covered employment."

16 Section 4. Section 19-9-104, MCA, is amended to read:

17 "19-9-104. Definitions. Unless the context requires
18 otherwise, the following definitions apply in this chapter:

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

21 (2) "Base salary" means the sum of the monthly
22 compensations for each month in a given calendar year.

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

25 (4) "Credited service" means the aggregate of a

1 member's prior service and membership service.

2 (5) "Dependent child" means a child of a deceased
3 member:

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

9 (6) "Employer" means any city which participated in a
10 prior plan or which elects to join this plan under 19-9-107.

11 (7) "Employer annuity" means monthly payments for life
12 derived from employer and state contributions.

13 (8) "Final average salary" means the monthly
14 compensation of a member, averaged over the last 36 months
15 of his active service or, in the event he has not been a
16 member that long, over the period of his membership.

17 (9) "Fund" means the pension trust fund in the
18 treasury system designated for the use of the plan.

19 ~~{10}-"Mandatory-retirement-date"-means-the-first-day-of~~
20 ~~the--month-coinciding-with-or-immediately-following,-if-none~~
21 ~~coincides,-the-date-on-which-a-member-attains-age-65-~~

22 {11}{10} "Member" means a person who is employed by an
23 employer as a police officer or who is entitled to a
24 retirement allowance by virtue of his service to an employer
25 as a police officer.

1 ~~{12}~~(11) "Member contributions" means the total of the
2 deductions from the compensation of a member, either made
3 during a period of active membership hereunder or made under
4 a prior plan and transferred to this plan, standing to his
5 credit, together with the interest thereon.

6 ~~{13}~~(12) "Member's annuity" means monthly payments for
7 life derived from member contributions.

8 ~~{14}~~(13) "Membership service" means a period of
9 employment with an employer occurring after June 30, 1977,
10 during which the withholdings required by this chapter 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 ~~{15}~~(14) "Minimum retirement date" or "normal
17 retirement date" means the first day of the month coinciding
18 with or immediately following, if none coincides, the date
19 on which a member becomes both age 50 or older and completes
20 20 or more years of credited service.

21 ~~{16}~~(15) "Monthly compensation" means the wage,
22 excluding overtime, holiday payments, shift differential
23 payments, compensation time payments, and payments in lieu
24 of sick leave and annual leave, a member receives as an
25 active police officer.

1 ~~(17)~~(16) Any reference to "municipality", "city", or
 2 "town" includes those jurisdictions which, prior to the
 3 effective date of a county-municipal consolidation, were
 4 incorporated municipalities, subsequent districts created
 5 for urban law enforcement services, or the entire county
 6 included in the county-municipal consolidation.

7 ~~(18)~~(17) "Plan" means the municipal police officers'
 8 retirement system created by this chapter.

9 ~~(19)~~(18) "Police officer" means a law enforcement
 10 officer employed by an employer.

11 ~~(20)~~(19) "Prior plan" means the local police reserve or
 12 retirement fund of a city which elects to join the plan
 13 under 19-9-107 or the statewide police reserve fund
 14 administered by the department of administration in
 15 accordance with Chapter 335, Laws of 1974.

16 ~~(21)~~(20) "Prior service" means a period of employment
 17 as a police officer for which credit was granted to a member
 18 under a prior plan and has been transferred to this plan.

19 ~~(22)~~(21) "Retirement allowance" means the employer
 20 annuity plus the member's annuity.

21 ~~(23)~~(22) "Retirement date" means the date on which the
 22 first payment of the retirement, disability, or survivor
 23 benefits of a member or a beneficiary is payable.

24 ~~(24)~~(23) "Surviving spouse" means the spouse married to
 25 a member at the time of the member's death.

1 ~~(25)~~(24) "Totally and permanently disabled" means that
 2 the board, upon certification by a licensed and practicing
 3 physician, has determined that a member's disability is of
 4 such a nature as to permanently impair his ability to
 5 discharge his normal duties as a police officer."

6 Section 5. Section 19-9-801, MCA, is amended to read:
 7 "19-9-801. Eligibility for service retirement --
 8 commencement of allowance. Members are eligible for
 9 retirement and shall retire as provided in this section:

10 (1) A member who was employed by an employer as a
 11 police officer on July 1, 1975, is eligible to receive a
 12 service retirement allowance when he has completed 20 years
 13 or more in the aggregate as a probationary officer, a
 14 regular officer, or a special officer, in any capacity or
 15 rank.

16 (2) A member who was or is first employed by an
 17 employer as a police officer after July 1, 1975, is eligible
 18 to receive a service retirement allowance when he has
 19 reached the age of 50 and has completed 20 years or more in
 20 the aggregate as a probationary officer, a regular officer,
 21 or a special officer, in any capacity or rank.

22 ~~(3) --Police--officers, whether first employed before or~~
 23 ~~after July 1, 1975, who reach the age of 65 while in active~~
 24 ~~service shall retire.~~

25 ~~(4)~~(3) The retirement allowance must commence on the

1 First day of the month following the member's last day of
2 membership service."

3 Section 6. Section 19-9-802, MCA, is amended to read:

4 "19-9-802. Election to serve additional years. (1) A
5 police officer who is eligible for service retirement under
6 19-9-801(1) or (2) may retire as of the time he becomes
7 eligible or may elect to serve an additional 1 to 10 years
8 as an active police officer ~~except that he may not elect to~~
9 ~~serve past his 65th birthday, the mandatory retirement date.~~

10 (2) A police officer whose eligibility depends on
11 19-9-801(2) and who completes 20 years of service before
12 reaching the age of 50 is considered to have elected to
13 serve an additional year for each year between the
14 completion of his 20th year of service and his 50th birthday
15 and shall be paid the additional 1%, as prescribed in
16 19-9-804(2), for each such year."

17 Section 7. Section 19-9-804, MCA, is amended to read:

18 "19-9-804. Amount of retirement allowance. (1) A
19 police officer who is eligible under subsection (1) or (2)
20 of 19-9-801 and does not elect to serve any additional years
21 as an active police officer ~~or who is retired under~~
22 ~~19-9-801(3) prior to reaching 20 years of service~~ shall
23 receive a service retirement allowance equal to one-half his
24 final average salary.

25 (2) A police officer who is eligible for service

1 retirement after 20 years of service and who elects to serve
2 additional years shall receive the allowance provided for in
3 subsection (1) plus an additional 1% of such allowance per
4 year of additional service, up to a maximum of 60% of the
5 final average salary.

6 ~~(3) A police officer who is retired under 19-9-801(3)~~
7 ~~and who was theretofore eligible at his option to be retired~~
8 ~~under subsection (1) or (2) of 19-9-801 but elected to serve~~
9 ~~additional years shall be paid for the additional years over~~
10 ~~his original eligibiity at the rate prescribed in~~
11 ~~subsection (2)."~~

12 Section 8. Section 19-10-401, MCA, is amended to read:

13 "19-10-401. Eligibility for service retirement. The
14 following persons are eligible for the police retired list
15 of a city and shall retire as provided in this section:

16 (1) A person who is employed by any city as a police
17 officer on July 1, 1975, is eligible for the police retired
18 list when he has completed 20 years or more in the aggregate
19 as a probationary officer, a regular officer, or a special
20 officer of the police department, in any capacity or rank.

21 (2) A person who is first employed by a city as a
22 police officer after July 1, 1975, is eligible for the
23 police retired list when he has reached the age of 50 and
24 has completed 20 years or more in the aggregate as a
25 probationary officer, a regular officer, or a special

1 officer of the police department, in any capacity or rank.

2 ~~{3}--Police--officers, whether first employed before or~~
 3 ~~after July 1, 1975, who reach the age of 65 while in active~~
 4 ~~service shall pass from the active list to the retired~~
 5 ~~list."~~

6 Section 9. Section 19-10-403, MCA, is amended to read:

7 "19-10-403. Option of officer to remain on active
 8 list. (1) A police officer who is eligible for the retired
 9 list under subsection (1) or (2) of 19-10-401 may transfer,
 10 as of the time he becomes eligible, to the retired list or
 11 may elect to serve an additional 1 to 10 years as an active
 12 police officer, ~~except that he may not elect to serve past~~
 13 ~~his 65th birthday.~~

14 (2) A police officer whose eligibility depends on
 15 19-10-401(2) and who completes 20 years of service before
 16 reaching the age of 50 is considered to have elected to
 17 serve an additional year for each year between the
 18 completion of his 20th year of service and his 50th
 19 birthday, and he shall be paid the additional 1% for each
 20 such year."

21 Section 10. Section 19-10-501, MCA, is amended to
 22 read:

23 "19-10-501. Service retirement allowance. When a
 24 police officer is transferred from the active list to the
 25 retired list of a city, he shall thereafter receive monthly

1 payments from the city's police retirement fund, as follows:

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

11 (2) A police officer who is eligible after 20 years of
 12 service and who elects to serve additional years shall
 13 receive the payment provided for in subsection (1) plus an
 14 additional 1% of such payment per year of additional
 15 service, up to a maximum of 60% of the base salary,
 16 excluding overtime ~~and~~ payments in lieu of sick leave and
 17 annual leave, he was receiving as an active officer computed
 18 on the highest salary received in any one month during his
 19 last year of active service.

20 ~~{3}--A police officer who is placed on the retired list~~
 21 ~~under 19-10-401(3) and who was theretofore eligible at his~~
 22 ~~option to be placed on the retired list under 19-10-401(1)~~
 23 ~~or (2) but elected to serve additional years shall be paid~~
 24 ~~for the additional years over his original eligibility at~~
 25 ~~the rate prescribed in subsection (2) of this section."~~

1 Section 11. Section 19-13-701, MCA, is amended to
2 read:

3 "19-13-701. Eligibility for service retirement --
4 commencement of allowance. (1) ~~The following members are~~
5 ~~eligible for service retirement:~~

6 ~~(a) -- a~~ A member who has reached age 50 and has
7 completed 10 years or more in the aggregate as a firefighter
8 in any capacity or rank;

9 ~~(b) -- a -- member who has reached mandatory retirement age~~
10 ~~under -- 19-13-702 -- regardless -- of -- his -- number -- of -- years -- of~~
11 ~~service: is eligible for service~~

12 ~~(2) -- The retirement allowance must commence commencing~~
13 on the first day of the month following the member's last
14 day of membership service.

15 (2) A member who terminates active service before age
16 50 and keeps his contributions on deposit under 19-13-304 is
17 eligible for service retirement commencing on the first day
18 of the month coinciding with or immediately following, if
19 none coincides, the date on which he reaches age 50."

20 Section 12. Section 19-13-704, MCA, is amended to
21 read:

22 "19-13-704. Amount of retirement allowance. (1) (a) A
23 member hired before July 1, 1981, who is eligible under
24 19-13-701~~(1)~~ and who elects to retire after completing 20
25 years of service and reaching age 50 as an active

1 firefighter shall receive a service retirement allowance
2 equal to one-half the monthly compensation last received by
3 the member for his service as an active firefighter. A
4 member who completes more than 20 years of service shall
5 receive an additional 1% of his final monthly compensation
6 for each year in excess of 20, up to a maximum of 60% of the
7 monthly compensation last received by the member.

8 (b) A member hired before July 1, 1981, who is
9 eligible under 19-13-701~~(1)~~ and who elects to retire after
10 completing 10 years or more of service but has not both
11 completed 20 years of service and reached age 50 as an
12 active firefighter shall receive a service retirement
13 allowance equal to 2% of the monthly compensation last
14 received by the member for each year of service up to a
15 maximum of 60% of his final monthly salary.

16 (i) If the member dies after he is permanently
17 separated from service and before he both reaches age 50 and
18 completes 20 years of service as an active firefighter, the
19 allowance prescribed in subsection (1)(b) must be made to
20 the surviving spouse beginning on the date the firefighter
21 would have both reached his 50th birthday and completed 20
22 years of service as an active firefighter and terminating
23 upon the surviving spouse's death or remarriage. If there is
24 no surviving spouse or if the surviving spouse dies or
25 remarries and if the firefighter leaves one or more

1 dependent children, the children are entitled to receive the
2 allowance as long as they remain dependent as defined in
3 19-13-104.

4 (ii) If the firefighter dies after he both reaches age
5 50 and completes 20 years of service as an active
6 firefighter, the payments must be made to the surviving
7 spouse or children as provided in subsection (1)(b)(i).

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

9 (a) is eligible under 19-13-701(1) shall receive a
10 service retirement allowance equal to 2% of his final
11 average salary for each year of service up to a maximum of
12 30 years of service;

13 ~~(b) is eligible under 19-13-701(2) shall receive a~~
14 ~~service retirement allowance equal to one-half his final~~
15 ~~average salary;~~

16 ~~(c) is retired under 19-13-701(2) and who was~~
17 ~~theretofore eligible at his option to be retired under~~
18 ~~19-13-701(1) but elected to serve additional years shall be~~
19 ~~paid for the additional years over his original eligibility~~
20 ~~at the rate prescribed in subsection (2)(a)."~~

21 NEW SECTION. Section 13. Repealer. Sections 19-6-504,
22 19-9-803, 19-13-702, and 19-13-703, MCA, are repealed.

23 NEW SECTION. Section 14. Extension of authority. Any
24 existing authority of the public employees' retirement board
25 to make rules on the subject of the provisions of this act

1 is extended to the provisions of this act.

2 NEW SECTION. Section 15. Effective date. This act is
3 effective on passage and approval.

-End-

1 SENATE BILL NO. 115

2 INTRODUCED BY MANNING

3 BY REQUEST OF THE PUBLIC

4 EMPLOYEES' RETIREMENT BOARD

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE MANDATORY
7 AND COMPULSORY RETIREMENT AGE PROVISIONS FROM THE PUBLIC LAW
8 ENFORCEMENT AND THE MONTANA FIREFIGHTERS' UNIFIED RETIREMENT
9 SYSTEMS; CLARIFYING THE RETIREMENT DATE FOR THE
10 FIREFIGHTERS' SYSTEM; AMENDING SECTIONS 19-6-101, 19-7-501,
11 19-8-601, 19-9-104, 19-9-801, 19-9-802, 19-9-804, 19-10-401,
12 19-10-403, 19-10-501, 19-13-701, AND 19-13-704, MCA;
13 REPEALING SECTIONS 19-6-504, 19-9-803, 19-13-702, AND
14 19-13-703, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 Section 1. Section 19-6-101, MCA, is amended to read:

18 "19-6-101. Definitions. Unless the context requires
19 otherwise, the following definitions apply in this chapter:20 (1) "Account" means the Montana highway patrolmen's
21 retirement pension trust fund.22 (2) "Accumulated deductions" means the total of the
23 amounts deducted from the salary of a member, paid into the
24 account, and standing to his credit in the account, together
25 with the regular interest thereon.1 (3) "Actuarial equivalent" means a benefit of equal
2 value when computed on the basis of the actuarial tables in
3 use by the system.4 (4) "Beneficiary" means a person nominated to receive
5 benefits under this chapter by a member's written
6 designation, duly acknowledged and filed with the
7 department.8 (5) "Board" means the public employees' retirement
9 board provided for in 2-15-1009.10 ~~{6}~~--"Compulsory-retirement-age"--means-60-years-of-age-
11 ~~{7}~~{6} "Department" means the public employees'
12 retirement division of the department of administration.13 ~~{8}~~{7} "Final salary" means the average annual
14 compensation received by a member, before any deductions
15 have been made and exclusive of maintenance, allowances, and
16 expenses, for any 3 years of continuous service upon which
17 contributions have been made or, in the event a member has
18 not served 3 years, the total compensation earned divided by
19 the number of years served. Lump-sum payments for sick leave
20 and annual leave paid to an employee upon termination of
21 employment may be used in the calculation of a retirement
22 allowance only to the extent that they are used to replace,
23 on a month for month basis, the normal compensation for a
24 month or months included in the calculation of the final
25 salary. A lump-sum payment may not be added to a single

1 month's compensation.

2 ~~{9}~~(8) "Member" means a person who has accumulated
3 deductions in the account standing to his credit.

4 ~~{10}~~(9) "Member's annuity" means payments for life
5 derived from contributions made by the member.

6 ~~{11}~~(10) "Retired patrolman" means a person in receipt
7 of a retirement allowance under this chapter.

8 ~~{12}~~(11) "Retirement age" means the age at which a
9 member retires after 25 years of creditable service with the
10 Montana highway patrol or 60 years of age, whichever occurs
11 first.

12 ~~{13}~~(12) "Retirement allowance" means the state annuity
13 plus the member's annuity.

14 ~~{14}~~(13) "State annuity" means payments for life
15 derived from contributions made by the state of Montana."

16 Section 2. Section 19-7-501, MCA, is amended to read:

17 "19-7-501. Eligibility and application for service
18 retirement -- commencement of allowance. (1) A sheriff in
19 service who has completed at least 25 years of service and
20 who has reached the age of 55 years may retire on a service
21 retirement allowance upon written application to the board,
22 submitted not less than 30 days or more than 90 days from
23 the desired date of retirement.

24 ~~{2}--Retirement--is--compulsory--for--any--nonelected~~
25 ~~sheriff-at-age-65,-except-in-the-case-of-undersheriffs-~~

1 ~~{3}~~(2) The retirement allowance must commence on the
2 first day of the month following the member's last day of
3 membership service."

4 Section 3. Section 19-8-601, MCA, is amended to read:

5 "19-8-601. Time of retirement -- commencement of
6 allowance. (1) Any member in service who has completed at
7 least 20 years of creditable service and who has reached the
8 age of 55 years may retire on service retirement allowance
9 upon written application to the board setting forth at what
10 time, not less than 30 days or more than 90 days subsequent
11 to the filing thereof, he desires to be retired.

12 ~~{2}--Retirement-shall-be-compulsory-at-age-60-~~

13 ~~{3}~~(2) The retirement allowance must commence on the
14 first day of the month following the member's last day of
15 covered employment."

16 Section 4. Section 19-9-104, MCA, is amended to read:

17 "19-9-104. Definitions. Unless the context requires
18 otherwise, the following definitions apply in this chapter:

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

21 (2) "Base salary" means the sum of the monthly
22 compensations for each month in a given calendar year.

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

25 (4) "Credited service" means the aggregate of a

1 member's prior service and membership service.

2 (5) "Dependent child" means a child of a deceased
3 member:

4 (a) who is unmarried and under 18 years of age; or

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

9 (6) "Employer" means any city which participated in a
10 prior plan or which elects to join this plan under 19-9-107.

11 (7) "Employer annuity" means monthly payments for life
12 derived from employer and state contributions.

13 (8) "Final average salary" means the monthly
14 compensation of a member, averaged over the last 36 months
15 of his active service or, in the event he has not been a
16 member that long, over the period of his membership.

17 (9) "Fund" means the pension trust fund in the
18 treasury system designated for the use of the plan.

19 ~~{10}-"Mandatory-retirement-date"-means-the-first-day-of~~
20 ~~the--month-coinciding-with-or-immediately-following,-if-none~~
21 ~~coincides,-the-date-on-which-a-member-attains-age-65-~~

22 {11}{10} "Member" means a person who is employed by an
23 employer as a police officer or who is entitled to a
24 retirement allowance by virtue of his service to an employer
25 as a police officer.

1 {12}{11} "Member contributions" means the total of the
2 deductions from the compensation of a member, either made
3 during a period of active membership hereunder or made under
4 a prior plan and transferred to this plan, standing to his
5 credit, together with the interest thereon.

6 {13}{12} "Member's annuity" means monthly payments for
7 life derived from member contributions.

8 {14}{13} "Membership service" means a period of
9 employment with an employer occurring after June 30, 1977,
10 during which the withholdings required by this chapter 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 {15}{14} "Minimum retirement date" or "normal
17 retirement date" means the first day of the month coinciding
18 with or immediately following, if none coincides, the date
19 on which a member becomes both age 50 or older and completes
20 20 or more years of credited service.

21 {16}{15} "Monthly compensation" means the wage,
22 excluding overtime, holiday payments, shift differential
23 payments, compensation time payments, and payments in lieu
24 of sick leave and annual leave, a member receives as an
25 active police officer.

1 ~~(17)~~(16) Any reference to "municipality", "city", or
 2 "town" includes those jurisdictions which, prior to the
 3 effective date of a county-municipal consolidation, were
 4 incorporated municipalities, subsequent districts created
 5 for urban law enforcement services, or the entire county
 6 included in the county-municipal consolidation.

7 ~~(18)~~(17) "Plan" means the municipal police officers'
 8 retirement system created by this chapter.

9 ~~(19)~~(18) "Police officer" means a law enforcement
 10 officer employed by an employer.

11 ~~(20)~~(19) "Prior plan" means the local police reserve or
 12 retirement fund of a city which elects to join the plan
 13 under 19-9-107 or the statewide police reserve fund
 14 administered by the department of administration in
 15 accordance with Chapter 335, Laws of 1974.

16 ~~(21)~~(20) "Prior service" means a period of employment
 17 as a police officer for which credit was granted to a member
 18 under a prior plan and has been transferred to this plan.

19 ~~(22)~~(21) "Retirement allowance" means the employer
 20 annuity plus the member's annuity.

21 ~~(23)~~(22) "Retirement date" means the date on which the
 22 first payment of the retirement, disability, or survivor
 23 benefits of a member or a beneficiary is payable.

24 ~~(24)~~(23) "Surviving spouse" means the spouse married to
 25 a member at the time of the member's death.

1 ~~(25)~~(24) "Totally and permanently disabled" means that
 2 the board, upon certification by a licensed and practicing
 3 physician, has determined that a member's disability is of
 4 such a nature as to permanently impair his ability to
 5 discharge his normal duties as a police officer."

6 Section 5. Section 19-9-801, MCA, is amended to read:

7 "19-9-801. Eligibility for service retirement --
 8 commencement of allowance. Members are eligible for
 9 retirement and shall retire as provided in this section:

10 (1) A member who was employed by an employer as a
 11 police officer on July 1, 1975, is eligible to receive a
 12 service retirement allowance when he has completed 20 years
 13 or more in the aggregate as a probationary officer, a
 14 regular officer, or a special officer, in any capacity or
 15 rank.

16 (2) A member who was or is first employed by an
 17 employer as a police officer after July 1, 1975, is eligible
 18 to receive a service retirement allowance when he has
 19 reached the age of 50 and has completed 20 years or more in
 20 the aggregate as a probationary officer, a regular officer,
 21 or a special officer, in any capacity or rank.

22 ~~(3) --Police--officers; whether first employed before or~~
 23 ~~after July 1, 1975, who reach the age of 65 while in active~~
 24 ~~service shall retire.~~

25 ~~(4)~~(3) The retirement allowance must commence on the

1 first day of the month following the member's last day of
2 membership service."

3 Section 6. Section 19-9-802, MCA, is amended to read:

4 "19-9-802. Election to serve additional years. (1) A
5 police officer who is eligible for service retirement under
6 19-9-801(1) or (2) may retire as of the time he becomes
7 eligible or may elect to serve an additional 1 to 10 years
8 as an active police officer, except that he may not elect to
9 serve past his 65th birthday, the mandatory retirement date.

10 (2) A police officer whose eligibility depends on
11 19-9-801(2) and who completes 20 years of service before
12 reaching the age of 50 is considered to have elected to
13 serve an additional year for each year between the
14 completion of his 20th year of service and his 50th birthday
15 and shall be paid the additional 1%, as prescribed in
16 19-9-804(2), for each such year."

17 Section 7. Section 19-9-804, MCA, is amended to read:

18 "19-9-804. Amount of retirement allowance. (1) A
19 police officer who is eligible under subsection (1) or (2)
20 of 19-9-801 and does not elect to serve any additional years
21 as an active police officer or who is retired under
22 19-9-801(3) prior to reaching 20 years of service shall
23 receive a service retirement allowance equal to one-half his
24 final average salary.

25 (2) A police officer who is eligible for service

1 retirement after 20 years of service and who elects to serve
2 additional years shall receive the allowance provided for in
3 subsection (1) plus an additional 1% of such allowance per
4 year of additional service, up to a maximum of 60% of the
5 final average salary.

6 ~~{3}--A--police--officer--who--is--retired--under--19-9-801(3)
7 and--who--was--theretofore--eligible--at--his--option--to--be--retired
8 under--subsection--(1)--or--(2)--of--19-9-801--but--elected--to--serve
9 additional--years--shall--be--paid--for--the--additional--years--over
10 his--original--eligibility--at--the--rate--prescribed--in
11 subsection--(2)."~~

12 Section 8. Section 19-10-401, MCA, is amended to read:

13 "19-10-401. Eligibility for service retirement. The
14 following persons are eligible for the police retired list
15 of a city and shall retire as provided in this section:

16 (1) A person who is employed by any city as a police
17 officer on July 1, 1975, is eligible for the police retired
18 list when he has completed 20 years or more in the aggregate
19 as a probationary officer, a regular officer, or a special
20 officer of the police department, in any capacity or rank.

21 (2) A person who is first employed by a city as a
22 police officer after July 1, 1975, is eligible for the
23 police retired list when he has reached the age of 50 and
24 has completed 20 years or more in the aggregate as a
25 probationary officer, a regular officer, or a special

1 officer of the police department, in any capacity or rank.

2 ~~{3}--Police--officers, whether first employed before or~~
 3 ~~after July 1, 1975, who reach the age of 65 while in active~~
 4 ~~service shall pass from the active list to the retired~~
 5 ~~list."~~

6 Section 9. Section 19-10-403, MCA, is amended to read:

7 "19-10-403. Option of officer to remain on active
 8 list. (1) A police officer who is eligible for the retired
 9 list under subsection (1) or (2) of 19-10-401 may transfer,
 10 as of the time he becomes eligible, to the retired list or
 11 may elect to serve an additional 1 to 10 years as an active
 12 police officer, ~~except that he may not elect to serve past~~
 13 ~~his 65th birthday.~~

14 (2) A police officer whose eligibility depends on
 15 19-10-401(2) and who completes 20 years of service before
 16 reaching the age of 50 is considered to have elected to
 17 serve an additional year for each year between the
 18 completion of his 20th year of service and his 50th
 19 birthday, and he shall be paid the additional 1% for each
 20 such year."

21 Section 10. Section 19-10-501, MCA, is amended to
 22 read:

23 "19-10-501. Service retirement allowance. When a
 24 police officer is transferred from the active list to the
 25 retired list of a city, he shall thereafter receive monthly

1 payments from the city's police retirement fund, as follows:

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

11 (2) A police officer who is eligible after 20 years of
 12 service and who elects to serve additional years shall
 13 receive the payment provided for in subsection (1) plus an
 14 additional 1% of such payment per year of additional
 15 service, up to a maximum of 60% of the base salary,
 16 excluding overtime and payments in lieu of sick leave and
 17 annual leave, he was receiving as an active officer computed
 18 on the highest salary received in any one month during his
 19 last year of active service.

20 ~~{3}--A police officer who is placed on the retired list~~
 21 ~~under 19-10-401(3) and who was theretofore eligible at his~~
 22 ~~option to be placed on the retired list under 19-10-401(1)~~
 23 ~~or (2) but elected to serve additional years shall be paid~~
 24 ~~for the additional years over his original eligibility at~~
 25 ~~the rate prescribed in subsection (2) of this section."~~

1 Section 11. Section 19-13-701, MCA, is amended to
2 read:

3 "19-13-701. Eligibility for service retirement --
4 commencement of allowance. (1) ~~The following members are~~
5 ~~eligible for service retirement:~~

6 ~~(a) -- a~~ A member who has reached age 50 and has
7 completed 10 years or more in the aggregate as a firefighter
8 in any capacity or rank;

9 ~~(b) -- a -- member who has reached mandatory retirement age~~
10 ~~under 19-13-702 -- regardless of his number of years of~~
11 ~~service; is eligible for service~~

12 ~~(2) -- The retirement allowance must commence commencing~~
13 on the first day of the month following the member's last
14 day of membership service.

15 (2) A member who terminates active service before age
16 50 and keeps his contributions on deposit under 19-13-304 is
17 eligible for service retirement commencing on the first day
18 of the month coinciding with or immediately following, if
19 none coincides, the date on which he reaches age 50."

20 Section 12. Section 19-13-704, MCA, is amended to
21 read:

22 "19-13-704. Amount of retirement allowance. (1) (a) A
23 member hired before July 1, 1981, who is eligible under
24 19-13-701~~(1)~~ and who elects to retire after completing 20
25 years of service and reaching age 50 as an active

1 firefighter shall receive a service retirement allowance
2 equal to one-half the monthly compensation last received by
3 the member for his service as an active firefighter. A
4 member who completes more than 20 years of service shall
5 receive an additional 1% of his final monthly compensation
6 for each year in excess of 20, up to a maximum of 60% of the
7 monthly compensation last received by the member.

8 (b) A member hired before July 1, 1981, who is
9 eligible under 19-13-701~~(1)~~ and who elects to retire after
10 completing 10 years or more of service but has not both
11 completed 20 years of service and reached age 50 as an
12 active firefighter shall receive a service retirement
13 allowance equal to 2% of the monthly compensation last
14 received by the member for each year of service up to a
15 maximum of 60% of his final monthly salary.

16 (i) If the member dies after he is permanently
17 separated from service and before he both reaches age 50 and
18 completes 20 years of service as an active firefighter, the
19 allowance prescribed in subsection (1)(b) must be made to
20 the surviving spouse beginning on the date the firefighter
21 would have both reached his 50th birthday and completed 20
22 years of service as an active firefighter and terminating
23 upon the surviving spouse's death or remarriage. If there is
24 no surviving spouse or if the surviving spouse dies or
25 remarries and if the firefighter leaves one or more

1 dependent children, the children are entitled to receive the
2 allowance as long as they remain dependent as defined in
3 19-13-104.

4 (ii) If the firefighter dies after he both reaches age
5 50 and completes 20 years of service as an active
6 firefighter, the payments must be made to the surviving
7 spouse or children as provided in subsection (1)(b)(i).

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

9 {a} is eligible under 19-13-701{1} shall receive a
10 service retirement allowance equal to 2% of his final
11 average salary for each year of service up to a maximum of
12 30 years of service;

13 ~~{b} is eligible under 19-13-701{2} shall receive a~~
14 ~~service retirement allowance equal to one-half his final~~
15 ~~average salary;~~

16 ~~{c} is retired under 19-13-701{2} and who was~~
17 ~~theretofore eligible at his option to be retired under~~
18 ~~19-13-701{1} but elected to serve additional years shall be~~
19 ~~paid for the additional years over his original eligibility~~
20 ~~at the rate prescribed in subsection (2){a}."~~

21 NEW SECTION. Section 13. Repealer. Sections 19-6-504,
22 19-9-803, 19-13-702, and 19-13-703, MCA, are repealed.

23 NEW SECTION. Section 14. Extension of authority. Any
24 existing authority of the public employees' retirement board
25 to make rules on the subject of the provisions of this act

1 is extended to the provisions of this act.

2 NEW SECTION. Section 15. Effective date. This act is
3 effective on passage and approval.

-End-