

SENATE BILL NO. 247

INTRODUCED BY DANIELS

BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

IN THE SENATE

January 25, 1985	Introduced and referred to Committee on State Administration.
January 28, 1985	Fiscal Note requested.
January 31, 1985	Fiscal Note returned.
February 15, 1985	Committee recommend bill do pass as amended. Report adopted.
February 16, 1985	Bill printed and placed on members' desks.
February 18, 1985	Motion pass consideration.
February 19, 1985	Second reading, do pass.
February 20, 1985	Considered correctly engrossed.
February 21, 1985	Third reading, passed. Ayes, 45; Noes, 2.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on State Administration.
March 20, 1985	Committee recommend bill be concurred in. Report adopted.

March 23, 1985

Second reading, concurred in.

On motion, taken from third reading and rereferred to Committee on Appropriations.

April 1, 1985

Committee recommend bill be concurred in. Report adopted.

Second reading, concurred in.

Third reading, concurred in.

Returned to Senate.

IN THE SENATE

April 1, 1985

Received from House.

April 2, 1985

Sent to enrolling.

Reported correctly enrolled.

1 Senate BILL NO. 247  
 2 INTRODUCED BY Janet  
 3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A PUBLIC  
 6 EMPLOYER TO PICK UP A MEMBER'S CONTRIBUTIONS UNDER THE  
 7 PUBLIC EMPLOYEES', TEACHERS', HIGHWAY PATROLMEN'S,  
 8 SHERIFFS', STATE GAME WARDENS', MUNICIPAL POLICE OFFICERS',  
 9 AND FIREFIGHTERS' UNIFIED RETIREMENT SYSTEMS; REQUIRING THE  
 10 EMPLOYER TO DEDUCT FROM THE MEMBER'S COMPENSATION AN AMOUNT  
 11 EQUAL TO THE AMOUNT OF THE MEMBER'S CONTRIBUTIONS PICKED UP  
 12 BY THE EMPLOYER; REQUIRING A MEMBER TO PAY STATE AND LOCAL  
 13 TAXES ON A REFUND OF HIS CONTRIBUTIONS; AMENDING SECTIONS  
 14 15-30-111, 15-30-136, 19-3-105, 19-3-701, 19-4-101,  
 15 19-4-208, 19-4-602, 19-4-706, 19-4-707, 19-6-402, 19-6-705,  
 16 19-7-403, 19-7-705, 19-8-502, 19-8-805, 19-9-601, 19-9-1005,  
 17 19-13-601, AND 19-13-1003, MCA; AND PROVIDING AN EFFECTIVE  
 18 DATE."

19  
 20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21 Section 1. Section 15-30-111, MCA, is amended to read:  
 22 "15-30-111. Adjusted gross income. (1) Adjusted gross  
 23 income shall be the taxpayer's federal income tax adjusted  
 24 gross income as defined in section 62 of the Internal  
 25 Revenue Code of 1954 or as that section may be labeled or

1 amended and in addition shall include the following:

2 (a) interest received on obligations of another state  
 3 or territory or county, municipality, district, or other  
 4 political subdivision thereof;

5 (b) refunds received of federal income tax, to the  
 6 extent the deduction of such tax resulted in a reduction of  
 7 Montana income tax liability.

8 (2) Notwithstanding the provisions of the federal  
 9 Internal Revenue Code of 1954 as labeled or amended,  
 10 adjusted gross income does not include the following which  
 11 are exempt from taxation under this chapter:

12 (a) all interest income from obligations of the United  
 13 States government, the state of Montana, county,  
 14 municipality, district, or other political subdivision  
 15 thereof;

16 (b) interest income earned by a taxpayer age 65 or  
 17 older in a taxable year up to and including \$800 for a  
 18 taxpayer filing a separate return and \$1,600 for each joint  
 19 return;

20 (c) all benefits received under the Federal Employees'  
 21 Retirement Act not in excess of \$3,600;

22 (d) all benefits, not in excess of \$360, received as  
 23 an annuity, pension, or endowment under any private or  
 24 corporate retirement plan or system;

25 (e) all benefits paid under the teachers' retirement

1 law which are specified as exempt from taxation by 19-4-706;

2 (f) all benefits paid under The Public Employees'  
3 Retirement System Act which are specified as exempt from  
4 taxation by 19-3-105;

5 (g) all benefits paid under the highway patrol  
6 retirement law which are specified as exempt from taxation  
7 by 19-6-705;

8 (h) all Montana income tax refunds or credits thereof;

9 (i) all benefits paid under 19-11-602, 19-11-604, and  
10 19-11-605 to retired and disabled firefighters, their  
11 surviving spouses and orphans;

12 (j) all benefits paid ~~by first--or-second-class cities~~  
13 ~~for under the policemen's municipal police officers'~~  
14 ~~retirement system provided for by Title 19, chapter--9 that~~  
15 ~~are specified as exempt from taxation by 19-9-1005;~~

16 (k) gain required to be recognized by a liquidating  
17 corporation under 15-31-113(1)(a)(ii);

18 (l) all tips covered by section 3402(k) of the  
19 Internal Revenue Code of 1954, as amended and applicable on  
20 January 1, 1983, received by persons for services rendered  
21 by them to patrons of premises licensed to provide food,  
22 beverage, or lodging.

23 (3) In the case of a shareholder of a corporation with  
24 respect to which the election provided for under subchapter  
25 S. of the Internal Revenue Code of 1954, as amended, is in

1 effect but with respect to which the election provided for  
2 under 15-31-202, as amended, is not in effect, adjusted  
3 gross income does not include any part of the corporation's  
4 undistributed taxable income, net operating loss, capital  
5 gains or other gains, profits, or losses required to be  
6 included in the shareholder's federal income tax adjusted  
7 gross income by reason of the said election under subchapter  
8 S. However, the shareholder's adjusted gross income shall  
9 include actual distributions from the corporation to the  
10 extent they would be treated as taxable dividends if the  
11 subchapter S. election were not in effect.

12 (4) A shareholder of a DISC that is exempt from the  
13 corporation license tax under 15-31-102(I)(1) shall include  
14 in his adjusted gross income the earnings and profits of the  
15 DISC in the same manner as provided by federal law (section  
16 995, Internal Revenue Code) for all periods for which the  
17 DISC election is effective.

18 (5) A taxpayer who, in determining federal adjusted  
19 gross income, has reduced his business deductions by an  
20 amount for wages and salaries for which a federal tax credit  
21 was elected under section 44B of the Internal Revenue Code  
22 of 1954 or as that section may be labeled or amended is  
23 allowed to deduct the amount of such wages and salaries paid  
24 regardless of the credit taken. The deduction must be made  
25 in the year the wages and salaries were used to compute the

1 credit. In the case of a partnership or small business  
2 corporation, the deduction must be made to determine the  
3 amount of income or loss of the partnership or small  
4 business corporation."

5 Section 2. Section 15-30-136, MCA, is amended to read:

6 "15-30-136. Computation of income of estates or trusts  
7 -- exemption. (1) Except as otherwise provided in this  
8 chapter, "gross income" of estates or trusts means all  
9 income from whatever source derived in the taxable year,  
10 including but not limited to the following items:

11 (a) dividends;

12 (b) interest received or accrued, including interest  
13 received on obligations of another state or territory or a  
14 county, municipality, district, or other political  
15 subdivision thereof, but excluding interest income from  
16 obligations of:

17 (i) the United States government or the state of  
18 Montana;

19 (ii) a school district; or

20 (iii) a county, municipality, district, or other  
21 political subdivision of the state;

22 (c) income from partnerships and other fiduciaries;

23 (d) gross rents and royalties;

24 (e) gain from sale or exchange of property, including  
25 those gains that are excluded from gross income for federal

1 fiduciary income tax purposes by section 641(c) of the  
2 Internal Revenue Code of 1954, as amended;

3 (f) gross profit from trade or business; and

4 (g) refunds recovered on federal income tax, to the  
5 extent the deduction of such tax resulted in a reduction of  
6 Montana income tax liability.

7 (2) In computing net income, there are allowed as  
8 deductions:

9 (a) interest expenses deductible for federal tax  
10 purposes according to section 163 of the Internal Revenue  
11 Code of 1954, as amended;

12 (b) taxes paid or accrued within the taxable year,  
13 including but not limited to federal income tax, but  
14 excluding Montana income tax;

15 (c) that fiduciary's portion of depreciation or  
16 depletion which is deductible for federal tax purposes  
17 according to sections 167, 611, and 642 of the Internal  
18 Revenue Code of 1954, as amended;

19 (d) charitable contributions that are deductible for  
20 federal tax purposes according to section 642(c) of the  
21 Internal Revenue Code of 1954, as amended;

22 (e) administrative expenses claimed for federal income  
23 tax purposes, according to sections 212 and 642(g) of the  
24 Internal Revenue Code of 1954, as amended, if such expenses  
25 were not claimed as a deduction in the determination of

1 Montana inheritance tax;

2 (f) losses from fire, storm, shipwreck, or other  
3 casualty or from theft, to the extent not compensated for by  
4 insurance or otherwise, that are deductible for federal tax  
5 purposes according to section 165 of the Internal Revenue  
6 Code of 1954, as amended;

7 (g) net operating loss deductions allowed for federal  
8 income tax under section 642(d) of the Internal Revenue Code  
9 of 1954, as amended, except estates may not claim losses  
10 that are deductible on the decedent's final return;

11 (h) all benefits received as federal employees'  
12 retirement not in excess of \$3,600;

13 (i) all benefits paid under the Montana teachers'  
14 retirement system that are specified as exempt from taxation  
15 by 19-4-706;

16 (j) all benefits paid under the Montana Public  
17 Employees' Retirement System Act that are specified as  
18 exempt from taxation by 19-3-105;

19 (k) all benefits paid under the Montana highway  
20 patrolmen's retirement system that are specified as exempt  
21 from taxation by 19-6-705;

22 (l) Montana income tax refunds or credits thereof;

23 (m) all benefits paid under 19-11-602, 19-11-604, and  
24 19-11-605 to retired and disabled firemen or their surviving  
25 spouses or children;

1 (n) all benefits paid by ~~first--or-second-class-cities~~  
2 for under the Montana municipal police officers' retirement  
3 system provided-for-by-the-metropolitan-police-law that are  
4 specified as exempt from taxation by 19-9-1005;

5 (o) all benefits not in excess of \$360 received as an  
6 annuity, pension, or endowment under private or corporate  
7 retirement plans or systems.

8 (3) In the case of a shareholder of a corporation with  
9 respect to which the election provided for under subchapter  
10 S. of the Internal Revenue Code of 1954, as amended, is in  
11 effect but with respect to which the election provided for  
12 under 15-31-202 is not in effect, net income does not  
13 include any part of the corporation's undistributed taxable  
14 income, net operating loss, capital gains or other gains,  
15 profits, or losses required to be included in the  
16 shareholder's federal income tax net income by reason of the  
17 election under subchapter S. However, the shareholder's net  
18 income shall include actual distribution from the  
19 corporation to the extent it would be treated as taxable  
20 dividends if the subchapter S. election were not in effect.

21 (4) The following additional deductions shall be  
22 allowed in deriving taxable income of estates and trusts:

23 (a) any amount of income for the taxable year  
24 currently required to be distributed to beneficiaries for  
25 such year;

1 (b) any other amounts properly paid or credited or  
2 required to be distributed for the taxable year;

3 (c) the amount of 60% of the excess of the net  
4 long-term capital gain over the net short-term capital loss  
5 for the taxable year.

6 (5) The exemption allowed for estates and trusts is  
7 that exemption provided in 15-30-112(2)(a) and  
8 15-30-112(8)."

9 Section 3. Section 19-3-105, MCA, is amended to read:

10 "19-3-105. Exemption from taxes and legal process. The  
11 right of a person to a retirement allowance or any other  
12 benefit under this chapter and the moneys in the fund  
13 created under this chapter ~~shall is~~ not be:

14 (1) subject to execution, garnishment, attachment,  
15 ~~state-or-municipal-taxes~~, or any other process;

16 (2) subject to state, county, or municipal taxes  
17 except for a refund paid under 19-3-703 of a member's  
18 contributions picked up by an employer after June 30, 1985,  
19 as provided in 19-3-701; or

20 (3) ~~whatsoever--and--shall--be-unassignable~~ assignable  
21 except as in this chapter specifically provided."

22 Section 4. Section 19-3-701, MCA, is amended to read:

23 "19-3-701. Member's contribution to be deducted.

24 (1) The normal contribution of each member ~~shall--be--equal~~  
25 to is 6% of his compensation. ~~The-chief-administrative~~

1 ~~officer-of-each-employer-shall-deduct-the-contribution--from~~  
2 ~~the--compensation--of-each-member-and-remit-the-total-of-the~~  
3 ~~contributions-to-the-board.~~ Payment of salaries or wages  
4 less the contribution shall be full and complete discharge  
5 and acquittance of all claims and demands whatsoever for the  
6 service rendered by members during the period covered by the  
7 payment, except their claims to the benefits to which they  
8 may be entitled under the provisions of this chapter.

9 (2) Each employer, pursuant to section 414(h)(2) of  
10 the federal Internal Revenue Code of 1954, as amended and  
11 applicable on July 1, 1985, shall pick up and pay the  
12 contributions which would be payable by the member under  
13 subsection (1) for service rendered after June 30, 1985.

14 (3) The member's contributions picked up by the  
15 employer must be designated for all purposes of the  
16 retirement system as the member's contributions, except for  
17 the determination of a tax upon a distribution from the  
18 retirement system. These contributions must become part of  
19 the member's accumulated contributions but must be accounted  
20 for separately from those previously accumulated.

21 (4) The member's contributions picked up by the  
22 employer must be payable from the same source as is used to  
23 pay compensation to the member and must be included in the  
24 member's wages as defined in 19-1-102 and his compensation  
25 as defined in 19-3-104. The employer shall deduct from the

1 member's compensation an amount equal to the amount of the  
 2 member's contributions picked up by the employer and remit  
 3 the total of the contributions to the board."

4 Section 5. Section 19-4-208, MCA, is amended to read:

5 "19-4-208. Duties of employer. Each employer shall:

6 (1) ~~deduct~~ pick up the contribution of each member  
 7 employed by him at the rate prescribed by 19-4-602 ~~from each~~  
 8 ~~salary--payment--for--each--payroll--period~~ and transmit the  
 9 contribution each month to the secretary of the retirement  
 10 board;

11 (2) pay to the secretary of the retirement board the  
 12 employer's contribution prescribed by 19-4-605, at the time  
 13 that the employee contributions are transmitted to the  
 14 secretary;

15 (3) keep records and, as required by the retirement  
 16 board, furnish information to the board that is required in  
 17 the discharge of the board's duties;

18 (4) upon the employment of a person who is required to  
 19 become a member of the retirement system, inform him of his  
 20 rights and obligations relating to the retirement system;

21 (5) at the request of the retirement board, certify  
 22 the names of all persons who are eligible for membership or  
 23 who are members of the retirement system; and

24 (6) notify the retirement board of the employment of a  
 25 person eligible for membership and forward his membership

1 application to the board."

2 Section 6. Section 19-4-101, MCA, is amended to read:

3 "19-4-101. Definitions. As used in this chapter,  
 4 unless the context clearly indicates otherwise, the  
 5 following definitions apply:

6 (1) "Accumulated contributions" means the sum of all  
 7 the amounts deducted from the compensation of a member or  
 8 paid by a member and credited to his individual account in  
 9 the annuity savings fund, together with interest. Regular  
 10 interest shall be computed and allowed to provide a benefit  
 11 at the time of retirement.

12 (2) "Actuarial equivalent" means a benefit of equal  
 13 value when computed, with regular interest, on the basis of  
 14 the mortality tables adopted by the retirement board.

15 (3) "Annuity" means the payments made to a beneficiary  
 16 for life which are derived from a member's accumulated  
 17 contributions.

18 (4) "Annuity reserve" means the present value of all  
 19 payments to be made on account of a member's annuity  
 20 computed, with regular interest, on the basis of the  
 21 mortality tables adopted by the retirement board.

22 (5) (a) "Average final compensation" means the average  
 23 of the earned compensation of a member during the 3  
 24 consecutive years of full-time service which yield the  
 25 highest average and on which contributions have been made as



1 required by 19-4-602~~(1)~~. If the earned compensation includes  
 2 any termination pay, the member shall select one of the  
 3 following options:

4 (i) use the total termination pay in the calculation  
 5 of the average final compensation. The member and the  
 6 employer shall pay such contributions to the retirement  
 7 system as are determined by the board to adequately  
 8 compensate the system for the additional retirement benefit.  
 9 The contributions must be made at the time the termination  
 10 pay is received.

11 (ii) use a yearly amount of termination pay added to  
 12 each of the 3 consecutive years' salary used in the  
 13 calculation of the average final compensation. The amount of  
 14 such compensation used in the calculation of average final  
 15 compensation must be divided by the total number of years of  
 16 creditable service with the employer from whom this type of  
 17 compensation was received to determine a yearly amount. The  
 18 member and the employer must pay the regular contribution on  
 19 the termination pay; or

20 (iii) exclude the termination pay from the average  
 21 final compensation. No contribution is required of either  
 22 the employer or member.

23 (b) For purposes of this subsection, termination pay  
 24 includes any form of termination pay or any lump-sum payment  
 25 for deferred compensation, sick leave, or accumulated

1 vacation credit, or any other payment for time not worked  
 2 other than compensation received while on sick leave or  
 3 authorized leave of absence.

4 (6) "Beneficiary" means a person in receipt of a  
 5 pension, annuity, retirement allowance, or other benefit  
 6 provided by the retirement system.

7 (7) "Creditable service" is that service defined by  
 8 19-4-401.

9 (8) "Earned compensation" means the full compensation,  
 10 pay, or salary actually paid to a member and reported to the  
 11 retirement system, including amounts paid under a salary  
 12 reduction agreement to a tax sheltered annuity or deferred  
 13 compensation program and the value of any housing provided  
 14 by the employer. The employer shall fix the value of any  
 15 housing provided. The term does not include any other  
 16 amounts paid in kind or fringe benefits not actually paid to  
 17 a member. The earned compensation of a member who had less  
 18 than 3 consecutive years of full-time service during the 5  
 19 years preceding his retirement is the compensation, pay, or  
 20 salary which he would have earned had his part-time service  
 21 been full-time service. The earned compensation of a member  
 22 who is awarded a disability retirement allowance prior to  
 23 the completion of a full year is the compensation, pay, or  
 24 salary which he would have received had he completed the  
 25 full year, except that any termination pay, as defined in

1 subsection (5)(b), received by the member is limited to the  
2 amount actually paid and is not the amount he would have  
3 earned had he completed the full year.

4 (9) "Employer" means the state of Montana, the  
5 trustees of a district, or any other agency or subdivision  
6 of the state which employs a person who is designated a  
7 member of the retirement system.

8 (10) "Full-time service" means service which is  
9 full-time and which extends over a normal academic year of  
10 at least 9 months. With respect to those members employed by  
11 the office of the superintendent of public instruction, any  
12 other state agency or institution, or the office of a county  
13 superintendent, "full-time service" means service which is  
14 full-time and which totals at least 9 months in any one  
15 year.

16 (11) "Member" means a person who has an individual  
17 account in the annuity savings fund. An active member is a  
18 person included under the provisions of 19-4-302. An  
19 inactive member is a person included under the provisions of  
20 19-4-303.

21 (12) "Part-time service" means service which is less  
22 than full-time or which totals less than 9 months in any one  
23 year. Part-time service shall be credited in the proportion  
24 that the actual time worked bears to full-time service.

25 (13) "Pension" means the payments made to a beneficiary

1 for life which are paid out of the pension accumulation  
2 fund.

3 (14) "Pension reserve" means the present value of all  
4 payments to be made on account of a pension computed, with  
5 regular interest, on the basis of the mortality tables  
6 adopted by the retirement board.

7 (15) "Prior service" means employment of the same  
8 nature as service defined in subsection (20) of this section  
9 but rendered before September 1, 1937.

10 (16) "Regular interest" means interest at 4% per annum  
11 compounded annually or at such other rate as may be set by  
12 the retirement board in accordance with 19-4-501(2).

13 (17) "Retirement allowance" means the annuity plus the  
14 pension.

15 (18) "Retirement board" means the retirement system's  
16 governing board provided for in 2-15-1010.

17 (19) "Retirement system" means the teachers' retirement  
18 system of the state of Montana provided for in 19-4-102.

19 (20) "Service" means the performance of such  
20 instructional duties or related activities as would entitle  
21 the person to active membership in the retirement system  
22 under the provisions of 19-4-302."

23 Section 7. Section 19-4-602, MCA, is amended to read:

24 "19-4-602. Annuity savings fund -- member's  
25 contribution. The annuity savings fund is a fund in which

1 subsection (1) for service rendered after June 30, 1985.

2 (3) The member's contributions picked up by the  
3 employer must be designated for all purposes of the  
4 retirement system as the member's contributions, except for  
5 the determination of a tax upon a distribution from the  
6 retirement system. These contributions must become part of  
7 the member's accumulated contributions but must be accounted  
8 for separately from those previously accumulated.

9 (4) The member's contributions picked up by the  
10 employer must be payable from the same source as is used to  
11 pay compensation to the member and must be included in the  
12 member's wages as defined in 19-1-102 and his compensation  
13 as used to define his final salary in 19-6-101. The  
14 employer shall deduct from the member's compensation an  
15 amount equal to the amount of the member's contributions  
16 picked up by the employer and remit the total of the  
17 contributions to the board."

18 Section 11. Section 19-6-705, MCA, is amended to read:

19 "19-6-705. Exemption from taxes and legal process. Any  
20 money received or to be paid as a member's annuity, state  
21 annuity, or return of deductions or the right of any of  
22 these ~~shall-be~~ is:

23 (1) exempt from any state, county, or municipal tax  
24 and except for a refund paid under 19-6-403 of a member's  
25 contributions picked up by an employer after June 30, 1985,

1 as provided in 19-6-402;

2 (2) exempt from levy, sale, garnishment, attachment,  
3 or any other process; whatsoever and

4 (3) shall--be unassignable except as specifically  
5 provided in 19-6-706."

6 Section 12. Section 19-7-403, MCA, is amended to read:

7 "19-7-403. Members' contributions deducted. (1) Every  
8 member shall be required to contribute into the account 7%  
9 of his monthly salary, which shall be ~~deducted--from--his~~  
10 ~~salary--and~~ deposited to his credit in the account.

11 (2) Each employer, pursuant to section 414(h)(2) of  
12 the federal Internal Revenue Code of 1954, as amended and  
13 applicable on July 1, 1985, shall pick up and pay the  
14 contributions which would be payable by the member under  
15 subsection (1) for service rendered after June 30, 1985.

16 (3) The member's contributions picked up by the  
17 employer must be designated for all purposes of the  
18 retirement system as the member's contributions, except for  
19 the determination of a tax upon a distribution from the  
20 retirement system. These contributions must become part of  
21 the member's accumulated contributions but must be accounted  
22 for separately from those previously accumulated.

23 (4) The member's contributions picked up by the  
24 employer must be payable from the same source as is used to  
25 pay compensation to the member and must be included in the

1 member's wages as defined in 19-1-102 and his salary as used  
 2 to define his final salary in 19-7-101. The employer shall  
 3 deduct from the member's compensation an amount equal to the  
 4 amount of the member's contributions picked up by the  
 5 employer and remit the total of the contributions to the  
 6 board."

7 Section 13. Section 19-7-705, MCA, is amended to read:

8 "19-7-705. Exemption from taxes and legal process. Any  
 9 money received or to be paid as a member's annuity, state  
 10 annuity, or return of deductions or the right of any of  
 11 these ~~shall be~~ is:

12 (1) exempt from any state, county, or municipal tax  
 13 and except for a refund paid under 19-7-304(1) of a member's  
 14 contributions picked up by an employer after June 30, 1985,  
 15 as provided in 19-7-403;

16 (2) exempt from levy, sale, garnishment, attachment,  
 17 or any other process; whatsoever and

18 (3) ~~shall be~~ unassignable except as specifically  
 19 provided in 19-7-706."

20 Section 14. Section 19-8-502, MCA, is amended to read:

21 "19-8-502. Member's contribution. (1) Every member is  
 22 required to contribute into the account a sum equal to 7% of  
 23 his monthly salary, which sum shall be ~~deducted--from--his~~  
 24 ~~salary and~~ deposited to his credit in the account.

25 (2) Each employer, pursuant to section 414(h)(2) of

1 the federal Internal Revenue Code of 1954, as amended and  
 2 applicable on July 1, 1985, shall pick up and pay the  
 3 contributions which would be payable by the member under  
 4 subsection (1) for service rendered after June 30, 1985.

5 (3) The member's contributions picked up by the  
 6 employer must be designated for all purposes of the  
 7 retirement system as the member's contributions, except for  
 8 the determination of a tax upon a distribution from the  
 9 retirement system. These contributions must become part of  
 10 the member's accumulated contributions but must be accounted  
 11 for separately from those previously accumulated.

12 (4) The member's contributions picked up by the  
 13 employer must be payable from the same source as is used to  
 14 pay compensation to the member and must be included in the  
 15 member's wages as defined in 19-1-102 and his compensation  
 16 as used to define his final salary in 19-8-101. The employer  
 17 shall deduct from the member's compensation an amount equal  
 18 to the amount of the member's contributions picked up by the  
 19 employer and remit the total of the contributions to the  
 20 board."

21 Section 15. Section 19-8-805, MCA, is amended to read:

22 "19-8-805. Exemption from taxes and legal process. Any  
 23 money received or to be paid as a member's annuity, state  
 24 annuity, or return of deductions or the right of any of  
 25 these ~~shall be~~ is:

1 (1) exempt from any state, county, or municipal tax  
 2 and except for a refund paid under 19-8-503 of the member's  
 3 contributions picked up by an employer after June 30, 1985,  
 4 as provided in 19-8-502;

5 (2) exempt from levy, sale, garnishment, attachment,  
 6 or any other process; whatsoever and

7 (3) shall be unassignable except as specifically  
 8 provided in 19-8-806."

9 Section 16. Section 19-9-601, MCA, is amended to read:

10 "19-9-601. Member contributions. (1) The treasurer or  
 11 other appropriate official of each employer shall retain  
 12 from the monthly compensation The normal contribution of  
 13 each active member a sum equal to is 6% of his monthly  
 14 compensation or, in the case of a member first employed by  
 15 an employer as a police officer after June 30, 1979, 7 1/2%  
 16 of his monthly compensation, excluding overtime, holiday  
 17 payments, shift differential payments, compensation time  
 18 payments, and payments in lieu of sick leave and annual  
 19 leave, for his services as a police officer. The monthly  
 20 deduction from the salaries of police officers shall be paid  
 21 to the administrator for the purpose of paying the  
 22 retirement allowances of retired police officers.

23 (2) Each employer, pursuant to section 414(h)(2) of  
 24 the federal Internal Revenue Code of 1954, as amended and  
 25 applicable on July 1, 1985, shall pick up and pay the

1 contributions which would be payable by the member under  
 2 subsection (1) for service rendered after June 30, 1985.

3 (3) The member's contributions picked up by the  
 4 employer must be designated for all purposes of the  
 5 retirement system as the member's contributions, except for  
 6 the determination of a tax upon a distribution from the  
 7 retirement system. These contributions must become part of  
 8 the member's accumulated contributions but must be accounted  
 9 for separately from those previously accumulated.

10 (4) The member's contributions picked up by the  
 11 employer must be payable from the same source as is used to  
 12 pay compensation to the member and must be included in the  
 13 member's wages as defined in 19-1-102 and his monthly  
 14 compensation as defined in 19-9-104. The employer shall  
 15 deduct from the member's compensation an amount equal to the  
 16 amount of the member's contributions picked up by the  
 17 employer and remit the total of the contributions to the  
 18 board."

19 Section 17. Section 19-9-1005, MCA, is amended to  
 20 read:

21 "19-9-1005. Exemption from taxes. Any money received  
 22 as a retirement allowance paid in accordance with the  
 23 provisions of this chapter is exempt from any state, county,  
 24 or municipal tax except a refund paid under 19-9-304 of a  
 25 member's contributions picked up by an employer after June

1 30, 1985, as provided in 19-9-601."

2 Section 18. Section 19-13-601, MCA, is amended to  
3 read:

4 "19-13-601. Member contributions. (1) Each employer  
5 shall retain from the monthly compensation of each active  
6 member ~~a sum equal to 7% of his monthly compensation for his~~  
7 ~~services--as--a--firefighter--and--shall--report~~ and remit on a  
8 monthly basis:

9 ~~(a) 6% of the monthly compensation of each member to~~  
10 ~~the administrator for deposit in the fund; and~~

11 ~~(b) 1% of the monthly compensation of each member to~~  
12 ~~the Montana state firemen's association for the payment of~~  
13 ~~premiums on a group life and accidental death and~~  
14 ~~dismemberment insurance policy for members and to defray~~  
15 ~~expenses incurred by the association when representing~~  
16 ~~members of the plan.~~

17 (2) The normal contribution of each active member is  
18 6% of his monthly compensation.

19 ~~(2)(3)~~ If a member receives compensation under the  
20 provisions of the Workers' Compensation Act, Title 39,  
21 chapter 71, the amount received must be included as part of  
22 his monthly compensation for purposes of determining  
23 contributions and service credits under the retirement  
24 system. Contributions made under this section, 19-13-604,  
25 and 19-13-605 must be based on the total compensation

1 received by the member from his employer and from the  
2 workers' compensation division during the period of  
3 disability.

4 (4) Each employer, pursuant to section 414(h)(2) of  
5 the federal Internal Revenue Code of 1954, as amended and  
6 applicable on July 1, 1985, shall pick up and pay the  
7 contributions which would be payable by the member under  
8 subsection (2) for service rendered after June 30, 1985.

9 (5) The member's contributions picked up by the  
10 employer must be designated for all purposes of the  
11 retirement system as the member's contributions, except for  
12 the determination of a tax upon a distribution from the  
13 retirement system. These contributions must become part of  
14 the member's accumulated contributions but must be accounted  
15 for separately from those previously accumulated.

16 (6) The member's contributions picked up by the  
17 employer must be payable from the same source as is used to  
18 pay compensation to the member and must be included in the  
19 member's monthly compensation as defined in 19-13-104. The  
20 employer shall deduct from the member's compensation an  
21 amount equal to the amount of the member's contributions  
22 picked up by the employer and remit the total of the  
23 contributions to the board."

24 Section 19. Section 19-13-1003, MCA, is amended to  
25 read:

1 "19-13-1003. Exemption from taxes. Any money received  
2 as-a--retirement--allowance paid in accordance with the  
3 provisions of this chapter is exempt from any state, county,  
4 or municipal tax except refunds paid under 19-13-602 of a  
5 member's contributions picked up by an employer after June  
6 30, 1985, as provided in 19-13-601."

7 NEW SECTION. Section 20. Extension of authority. Any  
8 existing authority of the public employees' retirement board  
9 or the teachers' retirement board to make rules on the  
10 subject of the provisions of this act is extended to the  
11 provisions of this act.

12 NEW SECTION. Section 21. Nonseverability. It is the  
13 intent of the legislature that each part of this act is  
14 essentially dependent upon every other part and if one part  
15 is held unconstitutional or invalid, all other parts are  
16 invalid.

17 NEW SECTION. Section 22. Effective date. This act is  
18 effective July 1, 1985.

-End-

## FISCAL NOTE

In compliance with a written request received January 28, 19 85, there is hereby submitted a Fiscal Note for S.B. 247 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:

An act requiring a public employer to pick up a member's contributions under the public employees', teachers', highway patrolmen's, sheriffs', state game wardens', municipal police officers', and firefighters' unified retirement systems; requiring the employer to deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer; requiring a member to pay state and local taxes on a refund of his contributions; and providing an effective date.

ASSUMPTIONS:

1. Individual income tax revenue is \$196,157,813 in FY 1986 and \$209,890,625 in FY 1987 under current law (OBPP).
2. Total public employee retirement contributions are \$53,349,329 in FY 1986 and \$56,172,008 in FY 1987.
3. Total refunds from PERS are \$15,258,782 in FY 1986 and \$17,684,927 in FY 1987.
4. The average effective individual income tax rate remains constant at the 1983 level of 5.39%.

*David L. Hunter*

BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: JAN 31, 1985  
SB247



FISCAL IMPACT:

	<u>Under</u> <u>Current Law</u>	<u>FY 86</u> <u>Under</u> <u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>FY 87</u> <u>Under</u> <u>Proposed Law</u>	<u>Difference</u>
<u>EFFECT ON REVENUE</u>						
Individual Income Tax	\$196,157,813	\$194,104,733	(\$2,053,080)	\$209,890,625	\$207,816,171	(\$2,074,454)
Totals	\$196,157,813	\$194,104,733	(\$2,053,080)	\$209,890,625	\$207,816,171	(\$2,074,454)

The loss of revenue to the general fund has been assumed in the OBPP revenue estimates. Passage of S.B. 247 would not alter that estimate.

FUND INFORMATION:

General Fund	\$125,541,000	\$124,227,029	(\$1,313,971)	\$134,330,000	\$133,002,349	(\$1,327,651)
Earmarked Special Revenue						
Fund (Foundation Program)	\$ 49,039,453	48,526,183	(\$ 513,270)	\$ 52,472,656	\$ 51,954,043	(\$ 518,613)
Capital Project Fund	\$ 21,577,360	\$ 21,351,521	(\$ 225,839)	\$ 23,087,969	\$ 22,859,779	(\$ 228,190)

LONG-RANGE EFFECTS:

The estimated revenue losses would continue into future years as the proposed legislation provides for taxing refunds withdrawn from PERS rather than taxing contributions to PERS.

AFFECT ON COUNTY AND OTHER LOCAL REVENUE OR EXPENDITURES:

There is no effect on local government or school revenues. Because the bill applies to city, county and school district retirements, those employees would also receive an effective increase in take home pay.

APPROVED BY COMMITTEE  
ON STATE ADMINISTRATION

1 SENATE BILL NO. 247  
 2 INTRODUCED BY DANIELS  
 3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD  
 4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A PUBLIC  
 6 EMPLOYER TO PICK UP A MEMBER'S CONTRIBUTIONS UNDER THE  
 7 PUBLIC EMPLOYEES', TEACHERS', HIGHWAY PATROLMEN'S,  
 8 SHERIFFS', STATE GAME WARDENS', AND MUNICIPAL POLICE  
 9 OFFICERS', AND ~~FIREFIGHTERS'~~ UNIFIED RETIREMENT SYSTEMS;  
 10 REQUIRING THE EMPLOYER TO DEDUCT FROM THE MEMBER'S  
 11 COMPENSATION AN AMOUNT EQUAL TO THE AMOUNT OF THE MEMBER'S  
 12 CONTRIBUTIONS PICKED UP BY THE EMPLOYER; REQUIRING A MEMBER  
 13 TO PAY STATE AND LOCAL TAXES ON A REFUND OF HIS  
 14 CONTRIBUTIONS; AMENDING SECTIONS 15-30-111, 15-30-136,  
 15 19-3-105, 19-3-701, 19-4-101, 19-4-208, 19-4-602, 19-4-706,  
 16 19-4-707, 19-6-402, 19-6-705, 19-7-403, 19-7-705, 19-8-502,  
 17 19-8-805, 19-9-601, AND 19-9-1005, ~~19-13-601~~ AND  
 18 ~~19-13-1003~~; MCA; AND PROVIDING AN EFFECTIVE DATE."  
 19  
 20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 21 Section 1. Section 15-30-111, MCA, is amended to read:  
 22 "15-30-111. Adjusted gross income. (1) Adjusted gross  
 23 income shall be the taxpayer's federal income tax adjusted  
 24 gross income as defined in section 62 of the Internal  
 25 Revenue Code of 1954 or as that section may be labeled or

1 amended and in addition shall include the following:  
 2 (a) interest received on obligations of another state  
 3 or territory or county, municipality, district, or other  
 4 political subdivision thereof;  
 5 (b) refunds received of federal income tax, to the  
 6 extent the deduction of such tax resulted in a reduction of  
 7 Montana income tax liability.  
 8 (2) Notwithstanding the provisions of the federal  
 9 Internal Revenue Code of 1954 as labeled or amended,  
 10 adjusted gross income does not include the following which  
 11 are exempt from taxation under this chapter:  
 12 (a) all interest income from obligations of the United  
 13 States government, the state of Montana, county,  
 14 municipality, district, or other political subdivision  
 15 thereof;  
 16 (b) interest income earned by a taxpayer age 65 or  
 17 older in a taxable year up to and including \$800 for a  
 18 taxpayer filing a separate return and \$1,600 for each joint  
 19 return;  
 20 (c) all benefits received under the Federal Employees'  
 21 Retirement Act not in excess of \$3,600;  
 22 (d) all benefits, not in excess of \$360, received as  
 23 an annuity, pension, or endowment under any private or  
 24 corporate retirement plan or system;  
 25 (e) all benefits paid under the teachers' retirement

SECOND READING



1 law which are specified as exempt from taxation by 19-4-706;

2 (f) all benefits paid under The Public Employees'  
3 Retirement System Act which are specified as exempt from  
4 taxation by 19-3-105;

5 (g) all benefits paid under the highway patrol  
6 retirement law which are specified as exempt from taxation  
7 by 19-6-705;

8 (h) all Montana income tax refunds or credits thereof;

9 (i) all benefits paid under 19-11-602, 19-11-604, and  
10 19-11-605 to retired and disabled firefighters, their  
11 surviving spouses and orphans;

12 (j) all benefits paid ~~by first--or-second-class-cities~~  
13 ~~for under the policemen's municipal police officers'~~  
14 ~~retirement system provided for by Title 19, chapter 9 that~~  
15 ~~are specified as exempt from taxation by 19-9-1005;~~

16 (k) gain required to be recognized by a liquidating  
17 corporation under 15-31-113(1)(a)(ii);

18 (l) all tips covered by section 3402(k) of the  
19 Internal Revenue Code of 1954, as amended and applicable on  
20 January 1, 1983, received by persons for services rendered  
21 by them to patrons of premises licensed to provide food,  
22 beverage, or lodging.

23 (3) In the case of a shareholder of a corporation with  
24 respect to which the election provided for under subchapter  
25 S. of the Internal Revenue Code of 1954, as amended, is in

1 effect but with respect to which the election provided for  
2 under 15-31-202, as amended, is not in effect, adjusted  
3 gross income does not include any part of the corporation's  
4 undistributed taxable income, net operating loss, capital  
5 gains or other gains, profits, or losses required to be  
6 included in the shareholder's federal income tax adjusted  
7 gross income by reason of the said election under subchapter  
8 S. However, the shareholder's adjusted gross income shall  
9 include actual distributions from the corporation to the  
10 extent they would be treated as taxable dividends if the  
11 subchapter S. election were not in effect.

12 (4) A shareholder of a DISC that is exempt from the  
13 corporation license tax under 15-31-102(1)(1) shall include  
14 in his adjusted gross income the earnings and profits of the  
15 DISC in the same manner as provided by federal law (section  
16 995, Internal Revenue Code) for all periods for which the  
17 DISC election is effective.

18 (5) A taxpayer who, in determining federal adjusted  
19 gross income, has reduced his business deductions by an  
20 amount for wages and salaries for which a federal tax credit  
21 was elected under section 44B of the Internal Revenue Code  
22 of 1954 or as that section may be labeled or amended is  
23 allowed to deduct the amount of such wages and salaries paid  
24 regardless of the credit taken. The deduction must be made  
25 in the year the wages and salaries were used to compute the

1 credit. In the case of a partnership or small business  
2 corporation, the deduction must be made to determine the  
3 amount of income or loss of the partnership or small  
4 business corporation."

5 Section 2. Section 15-30-136, MCA, is amended to read:

6 "15-30-136. Computation of income of estates or trusts  
7 -- exemption. (1) Except as otherwise provided in this  
8 chapter, "gross income" of estates or trusts means all  
9 income from whatever source derived in the taxable year,  
10 including but not limited to the following items:

11 (a) dividends;

12 (b) interest received or accrued, including interest  
13 received on obligations of another state or territory or a  
14 county, municipality, district, or other political  
15 subdivision thereof, but excluding interest income from  
16 obligations of:

17 (i) the United States government or the state of  
18 Montana;

19 (ii) a school district; or

20 (iii) a county, municipality, district, or other  
21 political subdivision of the state;

22 (c) income from partnerships and other fiduciaries;

23 (d) gross rents and royalties;

24 (e) gain from sale or exchange of property, including  
25 those gains that are excluded from gross income for federal

1 fiduciary income tax purposes by section 641(c) of the  
2 Internal Revenue Code of 1954, as amended;

3 (f) gross profit from trade or business; and

4 (g) refunds recovered on federal income tax, to the  
5 extent the deduction of such tax resulted in a reduction of  
6 Montana income tax liability.

7 (2) In computing net income, there are allowed as  
8 deductions:

9 (a) interest expenses deductible for federal tax  
10 purposes according to section 163 of the Internal Revenue  
11 Code of 1954, as amended;

12 (b) taxes paid or accrued within the taxable year,  
13 including but not limited to federal income tax, but  
14 excluding Montana income tax;

15 (c) that fiduciary's portion of depreciation or  
16 depletion which is deductible for federal tax purposes  
17 according to sections 167, 611, and 642 of the Internal  
18 Revenue Code of 1954, as amended;

19 (d) charitable contributions that are deductible for  
20 federal tax purposes according to section 642(c) of the  
21 Internal Revenue Code of 1954, as amended;

22 (e) administrative expenses claimed for federal income  
23 tax purposes, according to sections 212 and 642(g) of the  
24 Internal Revenue Code of 1954, as amended, if such expenses  
25 were not claimed as a deduction in the determination of

1 Montana inheritance tax;

2 (f) losses from fire, storm, shipwreck, or other  
3 casualty or from theft, to the extent not compensated for by  
4 insurance or otherwise, that are deductible for federal tax  
5 purposes according to section 165 of the Internal Revenue  
6 Code of 1954, as amended;

7 (g) net operating loss deductions allowed for federal  
8 income tax under section 642(d) of the Internal Revenue Code  
9 of 1954, as amended, except estates may not claim losses  
10 that are deductible on the decedent's final return;

11 (h) all benefits received as federal employees'  
12 retirement not in excess of \$3,600;

13 (i) all benefits paid under the Montana teachers'  
14 retirement system that are specified as exempt from taxation  
15 by 19-4-706;

16 (j) all benefits paid under the Montana Public  
17 Employees' Retirement System Act that are specified as  
18 exempt from taxation by 19-3-105;

19 (k) all benefits paid under the Montana highway  
20 patrolmen's retirement system that are specified as exempt  
21 from taxation by 19-6-705;

22 (l) Montana income tax refunds or credits thereof;

23 (m) all benefits paid under 19-11-602, 19-11-604, and  
24 19-11-605 to retired and disabled firemen or their surviving  
25 spouses or children;

1 (n) all benefits paid ~~by first--or-second-class cities~~  
2 ~~for under~~ the Montana municipal police officers' retirement  
3 system ~~provided-for-by-the-metropolitan-police-law that are~~  
4 specified as exempt from taxation by 19-9-1005;

5 (o) all benefits not in excess of \$360 received as an  
6 annuity, pension, or endowment under private or corporate  
7 retirement plans or systems.

8 (3) In the case of a shareholder of a corporation with  
9 respect to which the election provided for under subchapter  
10 S. of the Internal Revenue Code of 1954, as amended, is in  
11 effect but with respect to which the election provided for  
12 under 15-31-202 is not in effect, net income does not  
13 include any part of the corporation's undistributed taxable  
14 income, net operating loss, capital gains or other gains,  
15 profits, or losses required to be included in the  
16 shareholder's federal income tax net income by reason of the  
17 election under subchapter S. However, the shareholder's net  
18 income shall include actual distribution from the  
19 corporation to the extent it would be treated as taxable  
20 dividends if the subchapter S. election were not in effect.

21 (4) The following additional deductions shall be  
22 allowed in deriving taxable income of estates and trusts:

23 (a) any amount of income for the taxable year  
24 currently required to be distributed to beneficiaries for  
25 such year;

1 (b) any other amounts properly paid or credited or  
2 required to be distributed for the taxable year;

3 (c) the amount of 60% of the excess of the net  
4 long-term capital gain over the net short-term capital loss  
5 for the taxable year.

6 (5) The exemption allowed for estates and trusts is  
7 that exemption provided in 15-30-112(2)(a) and  
8 15-30-112(8)."

9 Section 3. Section 19-3-105, MCA, is amended to read:

10 "19-3-105. Exemption from taxes and legal process. The  
11 right of a person to a retirement allowance or any other  
12 benefit under this chapter and the moneys in the fund  
13 created under this chapter ~~shall is~~ not be:

14 (1) ~~subject to execution, garnishment, attachment,~~  
15 ~~state or municipal taxes,~~ or any other process;

16 (2) subject to state, county, or municipal taxes  
17 except for a refund paid under 19-3-703 of a member's  
18 contributions picked up by an employer after June 30, 1985,  
19 as provided in 19-3-701; or

20 (3) ~~whatsoever and shall be unassignable~~ assignable  
21 except as in this chapter specifically provided."

22 Section 4. Section 19-3-701, MCA, is amended to read:

23 "19-3-701. Member's contribution to be deducted.

24 (1) The normal contribution of each member ~~shall be equal~~  
25 ~~to is~~ 6% of his compensation. ~~The chief administrative~~

1 ~~officer of each employer shall deduct the contribution from~~  
2 ~~the compensation of each member and remit the total of the~~  
3 ~~contributions to the board.~~ Payment of salaries or wages  
4 less the contribution shall be full and complete discharge  
5 and acquittance of all claims and demands whatsoever for the  
6 service rendered by members during the period covered by the  
7 payment, except their claims to the benefits to which they  
8 may be entitled under the provisions of this chapter.

9 (2) Each employer, pursuant to section 414(h)(2) of  
10 the federal Internal Revenue Code of 1954, as amended and  
11 applicable on July 1, 1985, shall pick up and pay the  
12 contributions which would be payable by the member under  
13 subsection (1) for service rendered after June 30, 1985.

14 (3) The member's contributions picked up by the  
15 employer must be designated for all purposes of the  
16 retirement system as the member's contributions, except for  
17 the determination of a tax upon a distribution from the  
18 retirement system. These contributions must become part of  
19 the member's accumulated contributions but must be accounted  
20 for separately from those previously accumulated.

21 (4) The member's contributions picked up by the  
22 employer must be payable from the same source as is used to  
23 pay compensation to the member and must be included in the  
24 member's wages as defined in 19-1-102 and his compensation  
25 as defined in 19-3-104. The employer shall deduct from the

1 member's compensation an amount equal to the amount of the  
 2 member's contributions picked up by the employer and remit  
 3 the total of the contributions to the board."

4 Section 5. Section 19-4-208, MCA, is amended to read:

5 "19-4-208. Duties of employer. Each employer shall:

6 (1) deduct pick up the contribution of each member  
 7 employed by him at the rate prescribed by 19-4-602 ~~from each~~  
 8 ~~salary payment for each payroll period~~ and transmit the  
 9 contribution each month to the secretary of the retirement  
 10 board;

11 (2) pay to the secretary of the retirement board the  
 12 employer's contribution prescribed by 19-4-605, at the time  
 13 that the employee contributions are transmitted to the  
 14 secretary;

15 (3) keep records and, as required by the retirement  
 16 board, furnish information to the board that is required in  
 17 the discharge of the board's duties;

18 (4) upon the employment of a person who is required to  
 19 become a member of the retirement system, inform him of his  
 20 rights and obligations relating to the retirement system;

21 (5) at the request of the retirement board, certify  
 22 the names of all persons who are eligible for membership or  
 23 who are members of the retirement system; and

24 (6) notify the retirement board of the employment of a  
 25 person eligible for membership and forward his membership

1 application to the board."

2 Section 6. Section 19-4-101, MCA, is amended to read:

3 "19-4-101. Definitions. As used in this chapter,  
 4 unless the context clearly indicates otherwise, the  
 5 following definitions apply:

6 (1) "Accumulated contributions" means the sum of all  
 7 the amounts deducted from the compensation of a member or  
 8 paid by a member and credited to his individual account in  
 9 the annuity savings fund, together with interest. Regular  
 10 interest shall be computed and allowed to provide a benefit  
 11 at the time of retirement.

12 (2) "Actuarial equivalent" means a benefit of equal  
 13 value when computed, with regular interest, on the basis of  
 14 the mortality tables adopted by the retirement board.

15 (3) "Annuity" means the payments made to a beneficiary  
 16 for life which are derived from a member's accumulated  
 17 contributions.

18 (4) "Annuity reserve" means the present value of all  
 19 payments to be made on account of a member's annuity  
 20 computed, with regular interest, on the basis of the  
 21 mortality tables adopted by the retirement board.

22 (5) (a) "Average final compensation" means the average  
 23 of the earned compensation of a member during the 3  
 24 consecutive years of full-time service which yield the  
 25 highest average and on which contributions have been made as

1 required by 19-4-602~~(1)~~. If the earned compensation includes  
 2 any termination pay, the member shall select one of the  
 3 following options:

4 (i) use the total termination pay in the calculation  
 5 of the average final compensation. The member and the  
 6 employer shall pay such contributions to the retirement  
 7 system as are determined by the board to adequately  
 8 compensate the system for the additional retirement benefit.  
 9 The contributions must be made at the time the termination  
 10 pay is received.

11 (ii) use a yearly amount of termination pay added to  
 12 each of the 3 consecutive years' salary used in the  
 13 calculation of the average final compensation. The amount of  
 14 such compensation used in the calculation of average final  
 15 compensation must be divided by the total number of years of  
 16 creditable service with the employer from whom this type of  
 17 compensation was received to determine a yearly amount. The  
 18 member and the employer must pay the regular contribution on  
 19 the termination pay; or

20 (iii) exclude the termination pay from the average  
 21 final compensation. No contribution is required of either  
 22 the employer or member.

23 (b) For purposes of this subsection, termination pay  
 24 includes any form of termination pay or any lump-sum payment  
 25 for deferred compensation, sick leave, or accumulated

1 vacation credit, or any other payment for time not worked  
 2 other than compensation received while on sick leave or  
 3 authorized leave of absence.

4 (6) "Beneficiary" means a person in receipt of a  
 5 pension, annuity, retirement allowance, or other benefit  
 6 provided by the retirement system.

7 (7) "Creditable service" is that service defined by  
 8 19-4-401.

9 (8) "Earned compensation" means the full compensation,  
 10 pay, or salary actually paid to a member and reported to the  
 11 retirement system, including amounts paid under a salary  
 12 reduction agreement to a tax sheltered annuity or deferred  
 13 compensation program and the value of any housing provided  
 14 by the employer. The employer shall fix the value of any  
 15 housing provided. The term does not include any other  
 16 amounts paid in kind or fringe benefits not actually paid to  
 17 a member. The earned compensation of a member who had less  
 18 than 3 consecutive years of full-time service during the 5  
 19 years preceding his retirement is the compensation, pay, or  
 20 salary which he would have earned had his part-time service  
 21 been full-time service. The earned compensation of a member  
 22 who is awarded a disability retirement allowance prior to  
 23 the completion of a full year is the compensation, pay, or  
 24 salary which he would have received had he completed the  
 25 full year, except that any termination pay, as defined in



1 subsection (5)(b), received by the member is limited to the  
2 amount actually paid and is not the amount he would have  
3 earned had he completed the full year.

4 (9) "Employer" means the state of Montana, the  
5 trustees of a district, or any other agency or subdivision  
6 of the state which employs a person who is designated a  
7 member of the retirement system.

8 (10) "Full-time service" means service which is  
9 full-time and which extends over a normal academic year of  
10 at least 9 months. With respect to those members employed by  
11 the office of the superintendent of public instruction, any  
12 other state agency or institution, or the office of a county  
13 superintendent, "full-time service" means service which is  
14 full-time and which totals at least 9 months in any one  
15 year.

16 (11) "Member" means a person who has an individual  
17 account in the annuity savings fund. An active member is a  
18 person included under the provisions of 19-4-302. An  
19 inactive member is a person included under the provisions of  
20 19-4-303.

21 (12) "Part-time service" means service which is less  
22 than full-time or which totals less than 9 months in any one  
23 year. Part-time service shall be credited in the proportion  
24 that the actual time worked bears to full-time service.

25 (13) "Pension" means the payments made to a beneficiary

1 for life which are paid out of the pension accumulation  
2 fund.

3 (14) "Pension reserve" means the present value of all  
4 payments to be made on account of a pension computed, with  
5 regular interest, on the basis of the mortality tables  
6 adopted by the retirement board.

7 (15) "Prior service" means employment of the same  
8 nature as service defined in subsection (20) of this section  
9 but rendered before September 1, 1937.

10 (16) "Regular interest" means interest at 4% per annum  
11 compounded annually or at such other rate as may be set by  
12 the retirement board in accordance with 19-4-501(2).

13 (17) "Retirement allowance" means the annuity plus the  
14 pension.

15 (18) "Retirement board" means the retirement system's  
16 governing board provided for in 2-15-1010.

17 (19) "Retirement system" means the teachers' retirement  
18 system of the state of Montana provided for in 19-4-102.

19 (20) "Service" means the performance of such  
20 instructional duties or related activities as would entitle  
21 the person to active membership in the retirement system  
22 under the provisions of 19-4-302."

23 Section 7. Section 19-4-602, MCA, is amended to read:

24 "19-4-602. Annuity savings fund -- member's  
25 contribution. The annuity savings fund is a fund in which

1 the contributions ~~from~~ for the members to provide for their  
 2 annuities shall be accumulated in individual accounts for  
 3 each member. The normal contribution of each member is  
 4 7.044% of his earned compensation. Contributions to and  
 5 payments from the annuity savings fund shall be made in the  
 6 following manner:

7 (1) ~~(a)~~ Each employer, ~~shall deduct from the~~  
 8 ~~compensation of each active member on the payroll for each~~  
 9 ~~payroll period on and subsequent to the date on which the~~  
 10 ~~member became a member an amount equal to 7.044% of the~~  
 11 ~~member's earned compensation pursuant to section 414(h)(2)~~  
 12 of the federal Internal Revenue Code of 1954, as amended and  
 13 applicable on July 1, 1985, shall pick up and pay the  
 14 contributions which would be payable by the member under  
 15 this section for service rendered after June 30, 1985.

16 (b) The member's contributions picked up by the  
 17 employer must be designated for all purposes of the  
 18 retirement system as the member's contributions, except for  
 19 the determination of a tax upon a distribution from the  
 20 retirement system. These contributions must become part of  
 21 the member's accumulated contributions but must be accounted  
 22 for separately from those previously accumulated.

23 (c) The member's contributions picked up by the  
 24 employer must be payable from the same source as is used to  
 25 pay compensation to the member and must be included in the

1 member's wages as defined in 19-1-102 and his earned  
 2 compensation as used to define his average final  
 3 compensation in 19-4-101. The employer shall deduct from the  
 4 member's compensation an amount equal to the amount of the  
 5 member's contributions picked up by the employer and remit  
 6 the total of the contributions to the retirement board.

7 ~~(2)~~(d) The deductions shall be made notwithstanding  
 8 that the minimum compensation provided by law for a member  
 9 may be reduced thereby. Every member is considered to  
 10 consent to the deductions prescribed by this section, and  
 11 payment of salary or compensation less the deductions is a  
 12 complete discharge of all claims whatsoever for the services  
 13 rendered by the member during the period covered by the  
 14 payment, except as to the benefits provided by the  
 15 retirement system.

16 ~~(3)~~(2) In addition to the normal contributions  
 17 ~~deducted from compensation~~ and subject to the approval of  
 18 the retirement board, any member may redeposit in the  
 19 annuity savings fund, by a single payment or by an increased  
 20 rate of contribution, an amount equal to any accumulated  
 21 contributions which he has previously withdrawn, plus  
 22 interest in the amount the contributions would have earned  
 23 had the contributions not been withdrawn.

24 ~~(4)~~(3) The accumulated contributions of a member  
 25 withdrawn by him or paid to his estate or to his designated

1 beneficiary in event of his death shall be paid from the  
2 annuity savings fund. Upon the retirement of a member, his  
3 accumulated contributions shall be transferred from the  
4 annuity savings fund to the pension accumulation fund."

5 Section 8. Section 19-4-706, MCA, is amended to read:

6 "19-4-706. Exemption from taxation and legal process.

7 The pensions, annuities, or any other benefits accrued or  
8 accruing to any person under the provisions of the  
9 retirement system and the accumulated contributions and cash  
10 and securities in the various funds of the retirement system  
11 are hereby:

12 (1) exempted from any state, county, or municipal tax  
13 of the state of Montana except for a refund paid under  
14 19-4-603 of a member's contributions picked up by an  
15 employer after June 30, 1985, as provided in 19-4-602;

16 (2) and---shall not be subject to execution,  
17 garnishment, attachment by trustee process or otherwise, in  
18 law or equity, or any other process whatsoever; and

19 (3) shall---be unassignable except as specifically  
20 provided in this chapter."

21 Section 9. Section 19-4-707, MCA, is amended to read:

22 "19-4-707. Increase in allowances of certain retirees.

23 (1) On July 1, 1977, every beneficiary receiving a  
24 retirement allowance who was receiving such allowance prior  
25 to July 1, 1971, will be entitled to an increase in his

1 monthly retirement allowance of \$1 per month for each year  
2 of creditable service plus \$2 per month for each year he was  
3 retired prior to July 1, 1971. In the case of beneficiaries  
4 who are receiving an early retirement allowance, the latter  
5 figure of \$2 per month shall be multiplied by a fraction,  
6 the numerator of which is the number of years of his  
7 creditable service and the denominator of which is 30.

8 (2) The funds to pay for the increases in retirement  
9 allowances prescribed in subsection (1) shall be provided as  
10 follows:

11 (a) one-half from an increase, sufficient for the  
12 purpose, in the payroll deduction provided for in  
13 19-4-602~~(1)~~; and

14 (b) one-half from an increase, sufficient for the  
15 purpose, in the employer's contribution provided for in  
16 19-4-605(1)."

17 Section 10. Section 19-6-402, MCA, is amended to read:

18 "19-6-402. Member's contribution. (1) Every member  
19 shall be required to contribute into the account a sum equal  
20 to 6 1/2% of his monthly salary, which sum shall be deducted  
21 from--his-salary-and deposited to his credit in the account.

22 (2) Each employer, pursuant to section 414(h)(2) of  
23 the federal Internal Revenue Code of 1954, as amended and  
24 applicable on July 1, 1985, shall pick up and pay the  
25 contributions which would be payable by the member under

1 subsection (1) for service rendered after June 30, 1985.

2 (3) The member's contributions picked up by the  
3 employer must be designated for all purposes of the  
4 retirement system as the member's contributions, except for  
5 the determination of a tax upon a distribution from the  
6 retirement system. These contributions must become part of  
7 the member's accumulated contributions but must be accounted  
8 for separately from those previously accumulated.

9 (4) The member's contributions picked up by the  
10 employer must be payable from the same source as is used to  
11 pay compensation to the member and must be included in the  
12 member's wages as defined in 19-1-102 and his compensation  
13 as used to define his final salary in 19-6-101. The  
14 employer shall deduct from the member's compensation an  
15 amount equal to the amount of the member's contributions  
16 picked up by the employer and remit the total of the  
17 contributions to the board."

18 Section 11. Section 19-6-705, MCA, is amended to read:

19 "19-6-705. Exemption from taxes and legal process. Any  
20 money received or to be paid as a member's annuity, state  
21 annuity, or return of deductions or the right of any of  
22 these ~~shall be~~ is:

23 (1) exempt from any state, county, or municipal tax  
24 and except for a refund paid under 19-6-403 of a member's  
25 contributions picked up by an employer after June 30, 1985,

1 as provided in 19-6-402;

2 (2) exempt from levy, sale, garnishment, attachment,  
3 or any other process; ~~whatsoever~~ and

4 (3) ~~shall be~~ unassignable except as specifically  
5 provided in 19-6-706."

6 Section 12. Section 19-7-403, MCA, is amended to read:

7 "19-7-403. Members' contributions deducted. (1) Every  
8 member shall be required to contribute into the account 7%  
9 of his monthly salary, which shall be ~~deducted from his~~  
10 ~~salary and~~ deposited to his credit in the account.

11 (2) Each employer, pursuant to section 414(h)(2) of  
12 the federal Internal Revenue Code of 1954, as amended and  
13 applicable on July 1, 1985, shall pick up and pay the  
14 contributions which would be payable by the member under  
15 subsection (1) for service rendered after June 30, 1985.

16 (3) The member's contributions picked up by the  
17 employer must be designated for all purposes of the  
18 retirement system as the member's contributions, except for  
19 the determination of a tax upon a distribution from the  
20 retirement system. These contributions must become part of  
21 the member's accumulated contributions but must be accounted  
22 for separately from those previously accumulated.

23 (4) The member's contributions picked up by the  
24 employer must be payable from the same source as is used to  
25 pay compensation to the member and must be included in the

1 member's wages as defined in 19-1-102 and his salary as used  
 2 to define his final salary in 19-7-101. The employer shall  
 3 deduct from the member's compensation an amount equal to the  
 4 amount of the member's contributions picked up by the  
 5 employer and remit the total of the contributions to the  
 6 board."

7 Section 13. Section 19-7-705, MCA, is amended to read:

8 "19-7-705. Exemption from taxes and legal process. Any  
 9 money received or to be paid as a member's annuity, state  
 10 annuity, or return of deductions or the right of any of  
 11 these ~~shall be~~ is:

12 (1) exempt from any state, county, or municipal tax  
 13 and except for a refund paid under 19-7-304(1) of a member's  
 14 contributions picked up by an employer after June 30, 1985,  
 15 as provided in 19-7-403;

16 (2) exempt from levy, sale, garnishment, attachment,  
 17 or any other process; ~~whatsoever~~ and

18 (3) ~~shall be~~ unassignable except as specifically  
 19 provided in 19-7-706."

20 Section 14. Section 19-8-502, MCA, is amended to read:

21 "19-8-502. Member's contribution. (1) Every member is  
 22 required to contribute into the account a sum equal to 7% of  
 23 his monthly salary, which ~~sum shall be deducted from his~~  
 24 ~~salary and~~ deposited to his credit in the account.

25 (2) Each employer, pursuant to section 414(h)(2) of

1 the federal Internal Revenue Code of 1954, as amended and  
 2 applicable on July 1, 1985, shall pick up and pay the  
 3 contributions which would be payable by the member under  
 4 subsection (1) for service rendered after June 30, 1985.

5 (3) The member's contributions picked up by the  
 6 employer must be designated for all purposes of the  
 7 retirement system as the member's contributions, except for  
 8 the determination of a tax upon a distribution from the  
 9 retirement system. These contributions must become part of  
 10 the member's accumulated contributions but must be accounted  
 11 for separately from those previously accumulated.

12 (4) The member's contributions picked up by the  
 13 employer must be payable from the same source as is used to  
 14 pay compensation to the member and must be included in the  
 15 member's wages as defined in 19-1-102 and his compensation  
 16 as used to define his final salary in 19-8-101. The employer  
 17 shall deduct from the member's compensation an amount equal  
 18 to the amount of the member's contributions picked up by the  
 19 employer and remit the total of the contributions to the  
 20 board."

21 Section 15. Section 19-8-805, MCA, is amended to read:

22 "19-8-805. Exemption from taxes and legal process. Any  
 23 money received or to be paid as a member's annuity, state  
 24 annuity, or return of deductions or the right of any of  
 25 these ~~shall be~~ is:

1 (1) exempt from any state, county, or municipal tax  
 2 and except for a refund paid under 19-8-503 of the member's  
 3 contributions picked up by an employer after June 30, 1985,  
 4 as provided in 19-8-502;

5 (2) exempt from levy, sale, garnishment, attachment,  
 6 or any other process; whatsoever and

7 (3) shall---be unassignable except as specifically  
 8 provided in 19-8-806."

9 Section 16. Section 19-9-601, MCA, is amended to read:

10 "19-9-601. Member contributions. (1) The-treasurer-or  
 11 other-appropriate-official-of--each--employer--shall--retain  
 12 from--the--monthly--compensation The normal contribution of  
 13 each active member a-sum-equal--to is 6% of his monthly  
 14 compensation or, in the case of a member first employed by  
 15 an employer as a police officer after June 30, 1979, 7 1/2%  
 16 of his monthly compensation, excluding overtime, holiday  
 17 payments, shift differential payments, compensation time  
 18 payments, and payments in lieu of sick leave and annual  
 19 leave, for his services as a police officer. The--monthly  
 20 deduction-from-the-salaries-of-police-officers-shall-be-paid  
 21 to---the---administrator--for--the--purpose--of--paying--the  
 22 retirement-allowances-of-retired-police-officers-

23 (2) Each employer, pursuant to section 414(h)(2) of  
 24 the federal Internal Revenue Code of 1954, as amended and  
 25 applicable on July 1, 1985, shall pick up and pay the

1 contributions which would be payable by the member under  
 2 subsection (1) for service rendered after June 30, 1985.

3 (3) The member's contributions picked up by the  
 4 employer must be designated for all purposes of the  
 5 retirement system as the member's contributions, except for  
 6 the determination of a tax upon a distribution from the  
 7 retirement system. These contributions must become part of  
 8 the member's accumulated contributions but must be accounted  
 9 for separately from those previously accumulated.

10 (4) The member's contributions picked up by the  
 11 employer must be payable from the same source as is used to  
 12 pay compensation to the member and must be included in the  
 13 member's wages as defined in 19-1-102 and his monthly  
 14 compensation as defined in 19-9-104. The employer shall  
 15 deduct from the member's compensation an amount equal to the  
 16 amount of the member's contributions picked up by the  
 17 employer and remit the total of the contributions to the  
 18 board."

19 Section 17. Section 19-9-1005, MCA, is amended to  
 20 read:

21 "19-9-1005. Exemption from taxes. Any money received  
 22 as-a--retirement--allowance paid in accordance with the  
 23 provisions of this chapter is exempt from any state, county,  
 24 or municipal tax except a refund paid under 19-9-304 of a  
 25 member's contributions picked up by an employer after June

1 30, 1985, as provided in 19-9-601."

2 Section 18. ~~Section 19-13-601, MCA, is amended to~~  
3 read:

4 ~~"19-13-601. Member contributions. (1) Each employer~~  
5 ~~shall retain from the monthly compensation of each active~~  
6 ~~member a sum equal to 7% of his monthly compensation for his~~  
7 ~~services as a firefighter and shall report and remit on a~~  
8 ~~monthly basis:~~

9 ~~(a) 6% of the monthly compensation of each member to~~  
10 ~~the administrator for deposit in the fund; and~~

11 ~~(b) 1% of the monthly compensation of each member to~~  
12 ~~the Montana state firemen's association for the payment of~~  
13 ~~premiums on a group life and accidental death and~~  
14 ~~dismemberment insurance policy for members and to defray~~  
15 ~~expenses incurred by the association when representing~~  
16 ~~members of the plan.~~

17 ~~(2) The normal contribution of each active member is~~  
18 ~~6% of his monthly compensation.~~

19 ~~(2)(3) If a member receives compensation under the~~  
20 ~~provisions of the Workers' Compensation Act, Title 39,~~  
21 ~~chapter 71, the amount received must be included as part of~~  
22 ~~his monthly compensation for purposes of determining~~  
23 ~~contributions and service credits under the retirement~~  
24 ~~system. Contributions made under this section, 19-13-604,~~  
25 ~~and 19-13-605 must be based on the total compensation~~

1 received by the member from his employer and from the  
2 workers' compensation division during the period of  
3 disability:

4 ~~(4) Each employer, pursuant to section 414(h)(2) of~~  
5 ~~the federal Internal Revenue Code of 1954, as amended and~~  
6 ~~applicable on July 1, 1985, shall pick up and pay the~~  
7 ~~contributions which would be payable by the member under~~  
8 ~~subsection (2) for service rendered after June 30, 1985.~~

9 ~~(5) The member's contributions picked up by the~~  
10 ~~employer must be designated for all purposes of the~~  
11 ~~retirement system as the member's contributions, except for~~  
12 ~~the determination of a tax upon a distribution from the~~  
13 ~~retirement system. These contributions must become part of~~  
14 ~~the member's accumulated contributions but must be accounted~~  
15 ~~for separately from those previously accumulated.~~

16 ~~(6) The member's contributions picked up by the~~  
17 ~~employer must be payable from the same source as is used to~~  
18 ~~pay compensation to the member and must be included in the~~  
19 ~~member's monthly compensation as defined in 19-13-104. The~~  
20 ~~employer shall deduct from the member's compensation an~~  
21 ~~amount equal to the amount of the member's contributions~~  
22 ~~picked up by the employer and remit the total of the~~  
23 ~~contributions to the board."~~

24 Section 19. ~~Section 19-13-1003, MCA, is amended to~~  
25 read:

1       ~~"19-13-1003. Exemption from taxes. Any money received~~  
2       ~~as a retirement allowance paid in accordance with the~~  
3       ~~provisions of this chapter is exempt from any state, county,~~  
4       ~~or municipal tax except refunds paid under 19-13-602 of a~~  
5       ~~member's contributions picked up by an employer after June~~  
6       ~~30, 1985, as provided in 19-13-601."~~

7       NEW SECTION. Section 18. Extension of authority. Any  
8       existing authority of the public employees' retirement board  
9       or the teachers' retirement board to make rules on the  
10      subject of the provisions of this act is extended to the  
11      provisions of this act.

12      NEW SECTION. Section 19. Nonseverability. It is the  
13      intent of the legislature that each part of this act is  
14      essentially dependent upon every other part and if one part  
15      is held unconstitutional or invalid, all other parts are  
16      invalid.

17      NEW SECTION. Section 20. Effective date. This act is  
18      effective July 1, 1985.

-End-



SENATE BILL NO. 247

INTRODUCED BY DANIELS

BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A PUBLIC EMPLOYER TO PICK UP A MEMBER'S CONTRIBUTIONS UNDER THE PUBLIC EMPLOYEES', TEACHERS', HIGHWAY PATROLMEN'S, SHERIFFS', STATE GAME WARDENS', AND MUNICIPAL POLICE OFFICERS', AND--FIREFIGHTERS--UNIFIED RETIREMENT SYSTEMS; REQUIRING THE EMPLOYER TO DEDUCT FROM THE MEMBER'S COMPENSATION AN AMOUNT EQUAL TO THE AMOUNT OF THE MEMBER'S CONTRIBUTIONS PICKED UP BY THE EMPLOYER; REQUIRING A MEMBER TO PAY STATE AND LOCAL TAXES ON A REFUND OF HIS CONTRIBUTIONS; AMENDING SECTIONS 15-30-111, 15-30-136, 19-3-105, 19-3-701, 19-4-101, 19-4-208, 19-4-602, 19-4-706, 19-4-707, 19-6-402, 19-6-705, 19-7-403, 19-7-705, 19-8-502, 19-8-805, 19-9-601, AND 19-9-1005, 19-13-601, AND 19-13-1003, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 15-30-111, MCA, is amended to read:

"15-30-111. Adjusted gross income. (1) Adjusted gross income shall be the taxpayer's federal income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that section may be labeled or

amended and in addition shall include the following:

(a) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision thereof;

(b) refunds received of federal income tax, to the extent the deduction of such tax resulted in a reduction of Montana income tax liability.

(2) Notwithstanding the provisions of the federal Internal Revenue Code of 1954 as labeled or amended, adjusted gross income does not include the following which are exempt from taxation under this chapter:

(a) all interest income from obligations of the United States government, the state of Montana, county, municipality, district, or other political subdivision thereof;

(b) interest income earned by a taxpayer age 65 or older in a taxable year up to and including \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

(c) all benefits received under the Federal Employees' Retirement Act not in excess of \$3,600;

(d) all benefits, not in excess of \$360, received as an annuity, pension, or endowment under any private or corporate retirement plan or system;

(e) all benefits paid under the teachers' retirement

THIRD READING

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1 law which are specified as exempt from taxation by 19-4-706;

2 (f) all benefits paid under The Public Employees'  
3 Retirement System Act which are specified as exempt from  
4 taxation by 19-3-105;

5 (g) all benefits paid under the highway patrol  
6 retirement law which are specified as exempt from taxation  
7 by 19-6-705;

8 (h) all Montana income tax refunds or credits thereof;

9 (i) all benefits paid under 19-11-602, 19-11-604, and  
10 19-11-605 to retired and disabled firefighters, their  
11 surviving spouses and orphans;

12 (j) all benefits paid by ~~first--or--second--class--cities~~  
13 for under the policemen's municipal police officers'  
14 retirement system provided for by Title 19, chapter 9 that  
15 are specified as exempt from taxation by 19-9-1005;

16 (k) gain required to be recognized by a liquidating  
17 corporation under 15-31-113(1)(a)(ii);

18 (l) all tips covered by section 3402(k) of the  
19 Internal Revenue Code of 1954, as amended and applicable on  
20 January 1, 1983, received by persons for services rendered  
21 by them to patrons of premises licensed to provide food,  
22 beverage, or lodging.

23 (3) In the case of a shareholder of a corporation with  
24 respect to which the election provided for under subchapter  
25 -S. of the Internal Revenue Code of 1954, as amended, is in

1 effect but with respect to which the election provided for  
2 under 15-31-202, as amended, is not in effect, adjusted  
3 gross income does not include any part of the corporation's  
4 undistributed taxable income, net operating loss, capital  
5 gains or other gains, profits, or losses required to be  
6 included in the shareholder's federal income tax adjusted  
7 gross income by reason of the said election under subchapter  
8 S. However, the shareholder's adjusted gross income shall  
9 include actual distributions from the corporation to the  
10 extent they would be treated as taxable dividends if the  
11 subchapter S. election were not in effect.

12 (4) A shareholder of a DISC that is exempt from the  
13 corporation license tax under 15-31-102(1)(1) shall include  
14 in his adjusted gross income the earnings and profits of the  
15 DISC in the same manner as provided by federal law (section  
16 995, Internal Revenue Code) for all periods for which the  
17 DISC election is effective.

18 (5) A taxpayer who, in determining federal adjusted  
19 gross income, has reduced his business deductions by an  
20 amount for wages and salaries for which a federal tax credit  
21 was elected under section 44B of the Internal Revenue Code  
22 of 1954 or as that section may be labeled or amended is  
23 allowed to deduct the amount of such wages and salaries paid  
24 regardless of the credit taken. The deduction must be made  
25 in the year the wages and salaries were used to compute the

1 credit. In the case of a partnership or small business  
2 corporation, the deduction must be made to determine the  
3 amount of income or loss of the partnership or small  
4 business corporation."

5 Section 2. Section 15-30-136, MCA, is amended to read:

6 "15-30-136. Computation of income of estates or trusts  
7 -- exemption. (1) Except as otherwise provided in this  
8 chapter, "gross income" of estates or trusts means all  
9 income from whatever source derived in the taxable year,  
10 including but not limited to the following items:

11 (a) dividends;

12 (b) interest received or accrued, including interest  
13 received on obligations of another state or territory or a  
14 county, municipality, district, or other political  
15 subdivision thereof, but excluding interest income from  
16 obligations of:

17 (i) the United States government or the state of  
18 Montana;

19 (ii) a school district; or

20 (iii) a county, municipality, district, or other  
21 political subdivision of the state;

22 (c) income from partnerships and other fiduciaries;

23 (d) gross rents and royalties;

24 (e) gain from sale or exchange of property, including  
25 those gains that are excluded from gross income for federal

1 fiduciary income tax purposes by section 641(c) of the  
2 Internal Revenue Code of 1954, as amended;

3 (f) gross profit from trade or business; and

4 (g) refunds recovered on federal income tax, to the  
5 extent the deduction of such tax resulted in a reduction of  
6 Montana income tax liability.

7 (2) In computing net income, there are allowed as  
8 deductions:

9 (a) interest expenses deductible for federal tax  
10 purposes according to section 163 of the Internal Revenue  
11 Code of 1954, as amended;

12 (b) taxes paid or accrued within the taxable year,  
13 including but not limited to federal income tax, but  
14 excluding Montana income tax;

15 (c) that fiduciary's portion of depreciation or  
16 depletion which is deductible for federal tax purposes  
17 according to sections 167, 611, and 642 of the Internal  
18 Revenue Code of 1954, as amended;

19 (d) charitable contributions that are deductible for  
20 federal tax purposes according to section 642(c) of the  
21 Internal Revenue Code of 1954, as amended;

22 (e) administrative expenses claimed for federal income  
23 tax purposes, according to sections 212 and 642(g) of the  
24 Internal Revenue Code of 1954, as amended, if such expenses  
25 were not claimed as a deduction in the determination of

1 Montana inheritance tax;

2 (f) losses from fire, storm, shipwreck, or other  
3 casualty or from theft, to the extent not compensated for by  
4 insurance or otherwise, that are deductible for federal tax  
5 purposes according to section 165 of the Internal Revenue  
6 Code of 1954, as amended;

7 (g) net operating loss deductions allowed for federal  
8 income tax under section 642(d) of the Internal Revenue Code  
9 of 1954, as amended, except estates may not claim losses  
10 that are deductible on the decedent's final return;

11 (h) all benefits received as federal employees'  
12 retirement not in excess of \$3,600;

13 (i) all benefits paid under the Montana teachers'  
14 retirement system that are specified as exempt from taxation  
15 by 19-4-706;

16 (j) all benefits paid under the Montana Public  
17 Employees' Retirement System Act that are specified as  
18 exempt from taxation by 19-3-105;

19 (k) all benefits paid under the Montana highway  
20 patrolmen's retirement system that are specified as exempt  
21 from taxation by 19-6-705;

22 (l) Montana income tax refunds or credits thereof;

23 (m) all benefits paid under 19-11-602, 19-11-604, and  
24 19-11-605 to retired and disabled firemen or their surviving  
25 spouses or children;

1 (n) all benefits paid by ~~first--or-second-class-cities~~  
2 for under the Montana municipal police officers' retirement  
3 system provided-for-by-the-metropolitan-police-law that are  
4 specified as exempt from taxation by 19-9-1005;

5 (o) all benefits not in excess of \$360 received as an  
6 annuity, pension, or endowment under private or corporate  
7 retirement plans or systems.

8 (3) In the case of a shareholder of a corporation with  
9 respect to which the election provided for under subchapter  
10 S. of the Internal Revenue Code of 1954, as amended, is in  
11 effect but with respect to which the election provided for  
12 under 15-31-202 is not in effect, net income does not  
13 include any part of the corporation's undistributed taxable  
14 income, net operating loss, capital gains or other gains,  
15 profits, or losses required to be included in the  
16 shareholder's federal income tax net income by reason of the  
17 election under subchapter S. However, the shareholder's net  
18 income shall include actual distribution from the  
19 corporation to the extent it would be treated as taxable  
20 dividends if the subchapter S. election were not in effect.

21 (4) The following additional deductions shall be  
22 allowed in deriving taxable income of estates and trusts:

23 (a) any amount of income for the taxable year  
24 currently required to be distributed to beneficiaries for  
25 such year;

1 (b) any other amounts properly paid or credited or  
2 required to be distributed for the taxable year;

3 (c) the amount of 60% of the excess of the net  
4 long-term capital gain over the net short-term capital loss  
5 for the taxable year.

6 (5) The exemption allowed for estates and trusts is  
7 that exemption provided in 15-30-112(2)(a) and  
8 15-30-112(8)."

9 Section 3. Section 19-3-105, MCA, is amended to read:

10 "19-3-105. Exemption from taxes and legal process. The  
11 right of a person to a retirement allowance or any other  
12 benefit under this chapter and the moneys in the fund  
13 created under this chapter shall is not be:

14 (1) subject to execution, garnishment, attachment,  
15 state-or-municipal-taxes, or any other process;

16 (2) subject to state, county, or municipal taxes  
17 except for a refund paid under 19-3-703 of a member's  
18 contributions picked up by an employer after June 30, 1985,  
19 as provided in 19-3-701; or

20 (3) ~~whatsoever-and-shall-be-unassignable~~ assignable  
21 except as in this chapter specifically provided."

22 Section 4. Section 19-3-701, MCA, is amended to read:

23 "19-3-701. Member's contribution to be deducted.

24 (1) The normal contribution of each member shall-be-equal  
25 to is 6% of his compensation. ~~The--chief--administrative~~

1 ~~officer--of--each--employer--shall--deduct--the--contribution--from~~  
2 ~~the--compensation--of--each--member--and--remit--the--total--of--the~~  
3 ~~contributions--to--the--board.~~ Payment of salaries or wages  
4 less the contribution shall be full and complete discharge  
5 and acquittance of all claims and demands whatsoever for the  
6 service rendered by members during the period covered by the  
7 payment, except their claims to the benefits to which they  
8 may be entitled under the provisions of this chapter.

9 (2) Each employer, pursuant to section 414(h)(2) of  
10 the federal Internal Revenue Code of 1954, as amended and  
11 applicable on July 1, 1985, shall pick up and pay the  
12 contributions which would be payable by the member under  
13 subsection (1) for service rendered after June 30, 1985.

14 (3) The member's contributions picked up by the  
15 employer must be designated for all purposes of the  
16 retirement system as the member's contributions, except for  
17 the determination of a tax upon a distribution from the  
18 retirement system. These contributions must become part of  
19 the member's accumulated contributions but must be accounted  
20 for separately from those previously accumulated.

21 (4) The member's contributions picked up by the  
22 employer must be payable from the same source as is used to  
23 pay compensation to the member and must be included in the  
24 member's wages as defined in 19-1-102 and his compensation  
25 as defined in 19-3-104. The employer shall deduct from the

1 member's compensation an amount equal to the amount of the  
 2 member's contributions picked up by the employer and remit  
 3 the total of the contributions to the board."

4 Section 5. Section 19-4-208, MCA, is amended to read:  
 5 "19-4-208. Duties of employer. Each employer shall:

6 (1) ~~deduct~~ pick up the contribution of each member  
 7 employed by him at the rate prescribed by 19-4-602 ~~from each~~  
 8 ~~salary-payment-for-each--payroll--period~~ and transmit the  
 9 contribution each month to the secretary of the retirement  
 10 board;

11 (2) pay to the secretary of the retirement board the  
 12 employer's contribution prescribed by 19-4-605, at the time  
 13 that the employee contributions are transmitted to the  
 14 secretary;

15 (3) keep records and, as required by the retirement  
 16 board, furnish information to the board that is required in  
 17 the discharge of the board's duties;

18 (4) upon the employment of a person who is required to  
 19 become a member of the retirement system, inform him of his  
 20 rights and obligations relating to the retirement system;

21 (5) at the request of the retirement board, certify  
 22 the names of all persons who are eligible for membership or  
 23 who are members of the retirement system; and

24 (6) notify the retirement board of the employment of a  
 25 person eligible for membership and forward his membership

1 application to the board."

2 Section 6. Section 19-4-101, MCA, is amended to read:  
 3 "19-4-101. Definitions. As used in this chapter,  
 4 unless the context clearly indicates otherwise, the  
 5 following definitions apply:

6 (1) "Accumulated contributions" means the sum of all  
 7 the amounts deducted from the compensation of a member or  
 8 paid by a member and credited to his individual account in  
 9 the annuity savings fund, together with interest. Regular  
 10 interest shall be computed and allowed to provide a benefit  
 11 at the time of retirement.

12 (2) "Actuarial equivalent" means a benefit of equal  
 13 value when computed, with regular interest, on the basis of  
 14 the mortality tables adopted by the retirement board.

15 (3) "Annuity" means the payments made to a beneficiary  
 16 for life which are derived from a member's accumulated  
 17 contributions.

18 (4) "Annuity reserve" means the present value of all  
 19 payments to be made on account of a member's annuity  
 20 computed, with regular interest, on the basis of the  
 21 mortality tables adopted by the retirement board.

22 (5) (a) "Average final compensation" means the average  
 23 of the earned compensation of a member during the 3  
 24 consecutive years of full-time service which yield the  
 25 highest average and on which contributions have been made as

1 required by 19-4-602~~(1)~~. If the earned compensation includes  
 2 any termination pay, the member shall select one of the  
 3 following options:

4 (i) use the total termination pay in the calculation  
 5 of the average final compensation. The member and the  
 6 employer shall pay such contributions to the retirement  
 7 system as are determined by the board to adequately  
 8 compensate the system for the additional retirement benefit.  
 9 The contributions must be made at the time the termination  
 10 pay is received.

11 (ii) use a yearly amount of termination pay added to  
 12 each of the 3 consecutive years' salary used in the  
 13 calculation of the average final compensation. The amount of  
 14 such compensation used in the calculation of average final  
 15 compensation must be divided by the total number of years of  
 16 creditable service with the employer from whom this type of  
 17 compensation was received to determine a yearly amount. The  
 18 member and the employer must pay the regular contribution on  
 19 the termination pay; or

20 (iii) exclude the termination pay from the average  
 21 final compensation. No contribution is required of either  
 22 the employer or member.

23 (b) For purposes of this subsection, termination pay  
 24 includes any form of termination pay or any lump-sum payment  
 25 for deferred compensation, sick leave, or accumulated

1 vacation credit, or any other payment for time not worked  
 2 other than compensation received while on sick leave or  
 3 authorized leave of absence.

4 (6) "Beneficiary" means a person in receipt of a  
 5 pension, annuity, retirement allowance, or other benefit  
 6 provided by the retirement system.

7 (7) "Creditable service" is that service defined by  
 8 19-4-401.

9 (8) "Earned compensation" means the full compensation,  
 10 pay, or salary actually paid to a member and reported to the  
 11 retirement system, including amounts paid under a salary  
 12 reduction agreement to a tax sheltered annuity or deferred  
 13 compensation program and the value of any housing provided  
 14 by the employer. The employer shall fix the value of any  
 15 housing provided. The term does not include any other  
 16 amounts paid in kind or fringe benefits not actually paid to  
 17 a member. The earned compensation of a member who had less  
 18 than 3 consecutive years of full-time service during the 5  
 19 years preceding his retirement is the compensation, pay, or  
 20 salary which he would have earned had his part-time service  
 21 been full-time service. The earned compensation of a member  
 22 who is awarded a disability retirement allowance prior to  
 23 the completion of a full year is the compensation, pay, or  
 24 salary which he would have received had he completed the  
 25 full year, except that any termination pay, as defined in

1 subsection (5)(b), received by the member is limited to the  
2 amount actually paid and is not the amount he would have  
3 earned had he completed the full year.

4 (9) "Employer" means the state of Montana, the  
5 trustees of a district, or any other agency or subdivision  
6 of the state which employs a person who is designated a  
7 member of the retirement system.

8 (10) "Full-time service" means service which is  
9 full-time and which extends over a normal academic year of  
10 at least 9 months. With respect to those members employed by  
11 the office of the superintendent of public instruction, any  
12 other state agency or institution, or the office of a county  
13 superintendent, "full-time service" means service which is  
14 full-time and which totals at least 9 months in any one  
15 year.

16 (11) "Member" means a person who has an individual  
17 account in the annuity savings fund. An active member is a  
18 person included under the provisions of 19-4-302. An  
19 inactive member is a person included under the provisions of  
20 19-4-303.

21 (12) "Part-time service" means service which is less  
22 than full-time or which totals less than 9 months in any one  
23 year. Part-time service shall be credited in the proportion  
24 that the actual time worked bears to full-time service.

25 (13) "Pension" means the payments made to a beneficiary

1 for life which are paid out of the pension accumulation  
2 fund.

3 (14) "Pension reserve" means the present value of all  
4 payments to be made on account of a pension computed, with  
5 regular interest, on the basis of the mortality tables  
6 adopted by the retirement board.

7 (15) "Prior service" means employment of the same  
8 nature as service defined in subsection (20) of this section  
9 but rendered before September 1, 1937.

10 (16) "Regular interest" means interest at 4% per annum  
11 compounded annually or at such other rate as may be set by  
12 the retirement board in accordance with 19-4-501(2).

13 (17) "Retirement allowance" means the annuity plus the  
14 pension.

15 (18) "Retirement board" means the retirement system's  
16 governing board provided for in 2-15-1010.

17 (19) "Retirement system" means the teachers' retirement  
18 system of the state of Montana provided for in 19-4-102.

19 (20) "Service" means the performance of such  
20 instructional duties or related activities as would entitle  
21 the person to active membership in the retirement system  
22 under the provisions of 19-4-302."

23 Section 7. Section 19-4-602, MCA, is amended to read:

24 "19-4-602. Annuity savings fund -- member's  
25 contribution. The annuity savings fund is a fund in which



1 the contributions ~~from~~ for the members to provide for their  
 2 annuities shall be accumulated in individual accounts for  
 3 each member. The normal contribution of each member is  
 4 7.044% of his earned compensation. Contributions to and  
 5 payments from the annuity savings fund shall be made in the  
 6 following manner:

7 (1) (a) ~~Each employer, shall deduct from the~~  
 8 ~~compensation of each active member on the payroll for each~~  
 9 ~~payroll period on and subsequent to the date on which the~~  
 10 ~~member became a member an amount equal to 7.044% of the~~  
 11 ~~member's earned compensation pursuant to section 414(h)(2)~~  
 12 of the federal Internal Revenue Code of 1954, as amended and  
 13 applicable on July 1, 1985, shall pick up and pay the  
 14 contributions which would be payable by the member under  
 15 this section for service rendered after June 30, 1985.

16 (b) The member's contributions picked up by the  
 17 employer must be designated for all purposes of the  
 18 retirement system as the member's contributions, except for  
 19 the determination of a tax upon a distribution from the  
 20 retirement system. These contributions must become part of  
 21 the member's accumulated contributions but must be accounted  
 22 for separately from those previously accumulated.

23 (c) The member's contributions picked up by the  
 24 employer must be payable from the same source as is used to  
 25 pay compensation to the member and must be included in the

1 member's wages as defined in 19-1-102 and his earned  
 2 compensation as used to define his average final  
 3 compensation in 19-4-101. The employer shall deduct from the  
 4 member's compensation an amount equal to the amount of the  
 5 member's contributions picked up by the employer and remit  
 6 the total of the contributions to the retirement board.

7 (2)(d) The deductions shall be made notwithstanding  
 8 that the minimum compensation provided by law for a member  
 9 may be reduced thereby. Every member is considered to  
 10 consent to the deductions prescribed by this section, and  
 11 payment of salary or compensation less the deductions is a  
 12 complete discharge of all claims whatsoever for the services  
 13 rendered by the member during the period covered by the  
 14 payment, except as to the benefits provided by the  
 15 retirement system.

16 (3)(2) In addition to the normal contributions  
 17 ~~deducted from compensation~~ and subject to the approval of  
 18 the retirement board, any member may redeposit in the  
 19 annuity savings fund, by a single payment or by an increased  
 20 rate of contribution, an amount equal to any accumulated  
 21 contributions which he has previously withdrawn, plus  
 22 interest in the amount the contributions would have earned  
 23 had the contributions not been withdrawn.

24 (4)(3) The accumulated contributions of a member  
 25 withdrawn by him or paid to his estate or to his designated

1 beneficiary in event of his death shall be paid from the  
2 annuity savings fund. Upon the retirement of a member, his  
3 accumulated contributions shall be transferred from the  
4 annuity savings fund to the pension accumulation fund."

5 Section 8. Section 19-4-706, MCA, is amended to read:

6 "19-4-706. Exemption from taxation and legal process.

7 The pensions, annuities, or any other benefits accrued or  
8 accruing to any person under the provisions of the  
9 retirement system and the accumulated contributions and cash  
10 and securities in the various funds of the retirement system  
11 are hereby:

12 (1) exempted from any state, county, or municipal tax  
13 of the state of Montana except for a refund paid under  
14 19-4-603 of a member's contributions picked up by an  
15 employer after June 30, 1985, as provided in 19-4-602;

16 (2) ~~and~~ shall not be subject to execution,  
17 garnishment, attachment by trustee process or otherwise, in  
18 law or equity, or any other process whatsoever; and

19 (3) ~~shall~~ be unassignable except as specifically  
20 provided in this chapter."

21 Section 9. Section 19-4-707, MCA, is amended to read:

22 "19-4-707. Increase in allowances of certain retirees.

23 (1) On July 1, 1977, every beneficiary receiving a  
24 retirement allowance who was receiving such allowance prior  
25 to July 1, 1971, will be entitled to an increase in his

1 monthly retirement allowance of \$1 per month for each year  
2 of creditable service plus \$2 per month for each year he was  
3 retired prior to July 1, 1971. In the case of beneficiaries  
4 who are receiving an early retirement allowance, the latter  
5 figure of \$2 per month shall be multiplied by a fraction,  
6 the numerator of which is the number of years of his  
7 creditable service and the denominator of which is 30.

8 (2) The funds to pay for the increases in retirement  
9 allowances prescribed in subsection (1) shall be provided as  
10 follows:

11 (a) one-half from an increase, sufficient for the  
12 purpose, in the payroll deduction provided for in  
13 19-4-602~~+~~; and

14 (b) one-half from an increase, sufficient for the  
15 purpose, in the employer's contribution provided for in  
16 19-4-605(1)."

17 Section 10. Section 19-6-402, MCA, is amended to read:

18 "19-6-402. Member's contribution. (1) Every member  
19 shall be required to contribute into the account a sum equal  
20 to 6 1/2% of his monthly salary, which sum shall be deducted  
21 from ~~his salary and~~ deposited to his credit in the account.

22 (2) Each employer, pursuant to section 414(h)(2) of  
23 the federal Internal Revenue Code of 1954, as amended and  
24 applicable on July 1, 1985, shall pick up and pay the  
25 contributions which would be payable by the member under

1 subsection (1) for service rendered after June 30, 1985.

2 (3) The member's contributions picked up by the  
3 employer must be designated for all purposes of the  
4 retirement system as the member's contributions, except for  
5 the determination of a tax upon a distribution from the  
6 retirement system. These contributions must become part of  
7 the member's accumulated contributions but must be accounted  
8 for separately from those previously accumulated.

9 (4) The member's contributions picked up by the  
10 employer must be payable from the same source as is used to  
11 pay compensation to the member and must be included in the  
12 member's wages as defined in 19-1-102 and his compensation  
13 as used to define his final salary in 19-6-101. The  
14 employer shall deduct from the member's compensation an  
15 amount equal to the amount of the member's contributions  
16 picked up by the employer and remit the total of the  
17 contributions to the board."

18 Section 11. Section 19-6-705, MCA, is amended to read:

19 "19-6-705. Exemption from taxes and legal process. Any  
20 money received or to be paid as a member's annuity, state  
21 annuity, or return of deductions or the right of any of  
22 these ~~shall be~~ is:

23 (1) exempt from any state, county, or municipal tax  
24 and except for a refund paid under 19-6-403 of a member's  
25 contributions picked up by an employer after June 30, 1985,

1 as provided in 19-6-402;

2 (2) exempt from levy, sale, garnishment, attachment,  
3 or any other process; whatsoever and

4 (3) shall---be unassignable except as specifically  
5 provided in 19-6-706."

6 Section 12. Section 19-7-403, MCA, is amended to read:

7 "19-7-403. Members' contributions deducted. (1) Every  
8 member shall be required to contribute into the account 7%  
9 of his monthly salary, which shall be ~~deducted from his~~  
10 ~~salary and~~ deposited to his credit in the account.

11 (2) Each employer, pursuant to section 414(h)(2) of  
12 the federal Internal Revenue Code of 1954, as amended and  
13 applicable on July 1, 1985, shall pick up and pay the  
14 contributions which would be payable by the member under  
15 subsection (1) for service rendered after June 30, 1985.

16 (3) The member's contributions picked up by the  
17 employer must be designated for all purposes of the  
18 retirement system as the member's contributions, except for  
19 the determination of a tax upon a distribution from the  
20 retirement system. These contributions must become part of  
21 the member's accumulated contributions but must be accounted  
22 for separately from those previously accumulated.

23 (4) The member's contributions picked up by the  
24 employer must be payable from the same source as is used to  
25 pay compensation to the member and must be included in the

1 member's wages as defined in 19-1-102 and his salary as used  
 2 to define his final salary in 19-7-101. The employer shall  
 3 deduct from the member's compensation an amount equal to the  
 4 amount of the member's contributions picked up by the  
 5 employer and remit the total of the contributions to the  
 6 board."

7 Section 13. Section 19-7-705, MCA, is amended to read:

8 "19-7-705. Exemption from taxes and legal process. Any  
 9 money received or to be paid as a member's annuity, state  
 10 annuity, or return of deductions or the right of any of  
 11 these ~~shall be~~ is:

12 (1) exempt from any state, county, or municipal tax  
 13 and except for a refund paid under 19-7-304(1) of a member's  
 14 contributions picked up by an employer after June 30, 1985,  
 15 as provided in 19-7-403;

16 (2) exempt from levy, sale, garnishment, attachment,  
 17 or any other process; whatsoever and

18 (3) ~~shall be~~ unassignable except as specifically  
 19 provided in 19-7-706."

20 Section 14. Section 19-8-502, MCA, is amended to read:

21 "19-8-502. Member's contribution. (1) Every member is  
 22 required to contribute into the account a sum equal to 7% of  
 23 his monthly salary, which sum shall be ~~deducted from his~~  
 24 ~~salary and~~ deposited to his credit in the account.

25 (2) Each employer, pursuant to section 414(h)(2) of

1 the federal Internal Revenue Code of 1954, as amended and  
 2 applicable on July 1, 1985, shall pick up and pay the  
 3 contributions which would be payable by the member under  
 4 subsection (1) for service rendered after June 30, 1985.

5 (3) The member's contributions picked up by the  
 6 employer must be designated for all purposes of the  
 7 retirement system as the member's contributions, except for  
 8 the determination of a tax upon a distribution from the  
 9 retirement system. These contributions must become part of  
 10 the member's accumulated contributions but must be accounted  
 11 for separately from those previously accumulated.

12 (4) The member's contributions picked up by the  
 13 employer must be payable from the same source as is used to  
 14 pay compensation to the member and must be included in the  
 15 member's wages as defined in 19-1-102 and his compensation  
 16 as used to define his final salary in 19-8-101. The employer  
 17 shall deduct from the member's compensation an amount equal  
 18 to the amount of the member's contributions picked up by the  
 19 employer and remit the total of the contributions to the  
 20 board."

21 Section 15. Section 19-8-805, MCA, is amended to read:

22 "19-8-805. Exemption from taxes and legal process. Any  
 23 money received or to be paid as a member's annuity, state  
 24 annuity, or return of deductions or the right of any of  
 25 these ~~shall be~~ is:

1       (1) exempt from any state, county, or municipal tax  
 2 and except for a refund paid under 19-8-503 of the member's  
 3 contributions picked up by an employer after June 30, 1985,  
 4 as provided in 19-8-502;

5       (2) exempt from levy, sale, garnishment, attachment,  
 6 or any other process; whatsoever and

7       (3) shall---be unassignable except as specifically  
 8 provided in 19-8-806."

9       Section 16. Section 19-9-601, MCA, is amended to read:

10       "19-9-601. Member contributions. (1) ~~The treasurer or~~  
 11 ~~other appropriate official of each employer shall retain~~  
 12 ~~from the monthly compensation~~ The normal contribution of  
 13 each active member a sum equal to is 6% of his monthly  
 14 compensation or, in the case of a member first employed by  
 15 an employer as a police officer after June 30, 1979, 7 1/2%  
 16 of his monthly compensation, excluding overtime, holiday  
 17 payments, shift differential payments, compensation time  
 18 payments, and payments in lieu of sick leave and annual  
 19 leave, for his services as a police officer. ~~The monthly~~  
 20 ~~deduction from the salaries of police officers shall be paid~~  
 21 ~~to the administrator for the purpose of paying the~~  
 22 ~~retirement allowances of retired police officers.~~

23       (2) Each employer, pursuant to section 414(h)(2) of  
 24 the federal Internal Revenue Code of 1954, as amended and  
 25 applicable on July 1, 1985, shall pick up and pay the

1 contributions which would be payable by the member under  
 2 subsection (1) for service rendered after June 30, 1985.

3       (3) The member's contributions picked up by the  
 4 employer must be designated for all purposes of the  
 5 retirement system as the member's contributions, except for  
 6 the determination of a tax upon a distribution from the  
 7 retirement system. These contributions must become part of  
 8 the member's accumulated contributions but must be accounted  
 9 for separately from those previously accumulated.

10       (4) The member's contributions picked up by the  
 11 employer must be payable from the same source as is used to  
 12 pay compensation to the member and must be included in the  
 13 member's wages as defined in 19-1-102 and his monthly  
 14 compensation as defined in 19-9-104. The employer shall  
 15 deduct from the member's compensation an amount equal to the  
 16 amount of the member's contributions picked up by the  
 17 employer and remit the total of the contributions to the  
 18 board."

19       Section 17. Section 19-9-1005, MCA, is amended to  
 20 read:

21       "19-9-1005. Exemption from taxes. Any money received  
 22 ~~as a retirement allowance~~ paid in accordance with the  
 23 provisions of this chapter is exempt from any state, county,  
 24 or municipal tax except a refund paid under 19-9-304 of a  
 25 member's contributions picked up by an employer after June

1 30, 1985, as provided in 19-9-601."

2 Section 18. Section 19-13-601, MCA, is amended to  
3 read:

4 "19-13-601. Member contributions. (1) Each employer  
5 shall retain from the monthly compensation of each active  
6 member a sum equal to 7% of his monthly compensation for his  
7 services as a firefighter and shall report and remit on a  
8 monthly basis:

9 (a) 6% of the monthly compensation of each member to  
10 the administrator for deposit in the fund; and

11 (b) 1% of the monthly compensation of each member to  
12 the Montana state firemen's association for the payment of  
13 premiums on a group life and accidental death and  
14 dismemberment insurance policy for members and to defray  
15 expenses incurred by the association when representing  
16 members of the plan;

17 (2) The normal contribution of each active member is  
18 6% of his monthly compensation;

19 (2)(3) If a member receives compensation under the  
20 provisions of the Workers' Compensation Act, Title 39,  
21 chapter 71, the amount received must be included as part of  
22 his monthly compensation for purposes of determining  
23 contributions and service credits under the retirement  
24 system. Contributions made under this section, 19-13-604,  
25 and 19-13-605 must be based on the total compensation

1 received by the member from his employer and from the  
2 workers' compensation division during the period of  
3 disability;

4 (4) Each employer, pursuant to section 414(h)(2) of  
5 the federal Internal Revenue Code of 1954, as amended and  
6 applicable on July 1, 1985, shall pick up and pay the  
7 contributions which would be payable by the member under  
8 subsection (2) for service rendered after June 30, 1985;

9 (5) The member's contributions picked up by the  
10 employer must be designated for all purposes of the  
11 retirement system as the member's contributions, except for  
12 the determination of a tax upon a distribution from the  
13 retirement system. These contributions must become part of  
14 the member's accumulated contributions but must be accounted  
15 for separately from those previously accumulated.

16 (6) The member's contributions picked up by the  
17 employer must be payable from the same source as is used to  
18 pay compensation to the member and must be included in the  
19 member's monthly compensation as defined in 19-13-104. The  
20 employer shall deduct from the member's compensation an  
21 amount equal to the amount of the member's contributions  
22 picked up by the employer and remit the total of the  
23 contributions to the board."

24 Section 19. Section 19-13-1003, MCA, is amended to  
25 read:

1       ~~"19-13-1003. Exemption from taxes. Any money received~~  
2 ~~as a retirement allowance paid in accordance with the~~  
3 ~~provisions of this chapter is exempt from any state, county,~~  
4 ~~or municipal tax except refunds paid under 19-13-602 of a~~  
5 ~~member's contributions picked up by an employer after June~~  
6 ~~30, 1985, as provided in 19-13-601."~~

7       NEW SECTION. Section 18. Extension of authority. Any  
8 existing authority of the public employees' retirement board  
9 or the teachers' retirement board to make rules on the  
10 subject of the provisions of this act is extended to the  
11 provisions of this act.

12       NEW SECTION. Section 19. Nonseverability. It is the  
13 intent of the legislature that each part of this act is  
14 essentially dependent upon every other part and if one part  
15 is held unconstitutional or invalid, all other parts are  
16 invalid.

17       NEW SECTION. Section 20. Effective date. This act is  
18 effective July 1, 1985.

-End-

1 SENATE BILL NO. 247

2 INTRODUCED BY DANIELS

3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A PUBLIC  
6 EMPLOYER TO PICK UP A MEMBER'S CONTRIBUTIONS UNDER THE  
7 PUBLIC EMPLOYEES', TEACHERS', HIGHWAY PATROLMEN'S,  
8 SHERIFFS', STATE GAME WARDENS', AND MUNICIPAL POLICE  
9 OFFICERS' ~~AND--FIREFIGHTERS'--UNIFIED~~ RETIREMENT SYSTEMS;  
10 REQUIRING THE EMPLOYER TO DEDUCT FROM THE MEMBER'S  
11 COMPENSATION AN AMOUNT EQUAL TO THE AMOUNT OF THE MEMBER'S  
12 CONTRIBUTIONS PICKED UP BY THE EMPLOYER; REQUIRING A MEMBER  
13 TO PAY STATE AND LOCAL TAXES ON A REFUND OF HIS  
14 CONTRIBUTIONS; AMENDING SECTIONS 15-30-111, 15-30-136,  
15 19-3-105, 19-3-701, 19-4-101, 19-4-208, 19-4-602, 19-4-706,  
16 19-4-707, 19-6-402, 19-6-705, 19-7-403, 19-7-705, 19-8-502,  
17 19-8-805, 19-9-601, AND 19-9-1005, ~~19-13-6017----~~ AND  
18 ~~19-13-10037~~ MCA; AND PROVIDING AN EFFECTIVE DATE."  
19

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

21 Section 1. Section 15-30-111, MCA, is amended to read:

22 "15-30-111. Adjusted gross income. (1) Adjusted gross  
23 income shall be the taxpayer's federal income tax adjusted  
24 gross income as defined in section 62 of the Internal  
25 Revenue Code of 1954 or as that section may be labeled or

## REFERENCE BILL

There are no changes in S B 247 and will not be reprinted. Please refer to yellow or blue copy for complete text.