

SB 191 INTRODUCED BY BOYLAN  
EXCLUDE PERSONS RECEIVING PENSIONS FROM MEMBERSHIP  
IN TITLE 19 PENSION PLANS

1/21 INTRODUCED  
1/21 REFERRED TO STATE ADMINISTRATION  
1/21 FISCAL NOTE REQUESTED  
1/26 HEARING  
1/28 FISCAL NOTE RECEIVED  
1/28 ADVERSE COMMITTEE REPORT ADOPTED 45 2

1 Senate BILL NO. 191  
2 INTRODUCED BY Boyer  
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT EXCLUDING CERTAIN  
5 PUBLIC EMPLOYEES WHO ARE RECEIVING RETIREMENT ALLOWANCES  
6 FROM OTHER PUBLIC RETIREMENT PLANS FROM MEMBERSHIP IN THE  
7 PUBLIC EMPLOYEES', TEACHERS', JUDGES', HIGHWAY PATROLMEN'S,  
8 SHERIFFS', GAME WARDENS', MUNICIPAL POLICE OFFICERS', LOCAL  
9 POLICE, LOCAL FIREFIGHTERS', AND FIREFIGHTERS' UNIFIED  
10 RETIREMENT SYSTEMS; AMENDING SECTIONS 19-3-401 THROUGH  
11 19-3-403, 19-4-302, 19-4-303, 19-5-301, 19-6-301, 19-7-301,  
12 19-7-501, 19-8-301, 19-9-104, 19-9-301, 19-10-302,  
13 19-10-401, 19-10-402, 19-10-503, 19-11-102, 19-13-104, AND  
14 19-13-301, MCA; AND PROVIDING AN EFFECTIVE DATE."  
15

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

17 Section 1. Section 19-3-401, MCA, is amended to read:

18 "19-3-401. Membership. (1) Att Except as provided in  
19 19-3-403, all employees shall become members on the first  
20 day of employment. Each employee shall file with the board  
21 such information affecting his status as a member of the  
22 retirement system as the board may require.

23 (2) Every employee who reenters service shall become a  
24 member unless he has had an original election of exemption  
25 from membership and his service was not interrupted by a

1 break of more than 1 month or he is prohibited from  
2 membership under 19-3-403. A seasonal employee who has had  
3 an original election of exemption from membership will not  
4 be subject to the requirement regarding the break in service  
5 while continuing in his original employment and employed on  
6 a seasonal basis, but upon termination of employment to  
7 accept new employment or absence of more than 1 month in  
8 returning to original employment in any ensuing season, such  
9 a seasonal employee shall become a member of the retirement  
10 system upon reentry unless he is prohibited from membership  
11 under 19-3-403.

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

16 Section 2. Section 19-3-402, MCA, is amended to read:

17 "19-3-402. Federally subsidized employees eligible. A  
18 person whose compensation is paid either fully or in part  
19 from federal funds but who is not subject to the federal  
20 retirement system is considered an employee and is entitled  
21 to all benefits and is required to make all employee  
22 contributions under the retirement system based upon the  
23 full salary received by such employee, including that  
24 portion of salary paid from federal funds, unless he is  
25 prohibited from membership under 19-3-403."



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

2 "19-3-403. Exclusions. The following persons may not  
3 become members of the retirement system:

4 (1) elective officers who have not filed with the  
5 board written requests to become members, except that a  
6 person so excluded from membership may later become a member  
7 by otherwise becoming an employee or by written request  
8 after a subsequent election to office, and if he  
9 affirmatively exercises the option, the contributions of the  
10 employer because of his membership shall be the same as they  
11 would have been had he not been so excluded;

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

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

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

20 (5) employees serving in employment which does not  
21 exceed the equivalent of 120 working days in any fiscal year  
22 who have not filed with the board a written request to  
23 become members. A member so excluded from membership by this  
24 subsection may later become a member by otherwise becoming  
25 an employee or by written request after the initial date of

1 exclusion. If he affirmatively exercises the option and pays  
2 the employee contribution plus interest, the contributions  
3 of the employer, because of his membership, shall be the  
4 same as they would have been had he not been so excluded  
5 plus accrued interest on all employer contributions from the  
6 date the contributions would have been made to the date of  
7 payment.

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

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

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

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

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

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

25 (9) persons hired after [the effective date of this

1 act} who are receiving a retirement allowance, except for  
 2 social security benefits, from any other retirement system  
 3 requiring contributions from the federal government or a  
 4 state or local governing body;

5 {9}(10) court commissioners or appointive members of  
 6 any board or commission who serve the state or any  
 7 contracting employer intermittently and who are paid on a  
 8 per diem basis;

9 {10}(11) persons who become employees after they have  
 10 reached their 60th birthday and have no creditable service  
 11 in this system and who do not file with the board an  
 12 election to become members;

13 {11}(12) employees of county hospitals or county rest  
 14 homes in the sixth- and seventh-class counties, unless they  
 15 elect to file with the board an election in writing to  
 16 become members;

17 {12}(13) persons employed for 6 months or less by the  
 18 legislature or the legislative council to perform work  
 19 related to the legislative session who do not file with the  
 20 board an election in writing to become members;

21 {13}(14) full-time students employed at and attending  
 22 the same public elementary school, high school,  
 23 vocational-technical center, or community college or any  
 24 unit of the state university system, except that a person so  
 25 excluded from membership as a student of a public community

1 college or a unit of the state university system who later  
 2 becomes a member by otherwise becoming an employee may  
 3 affirmatively exercise the option of qualifying the service  
 4 excluded by this subsection by applying to the board in  
 5 writing after becoming a member and become eligible to  
 6 receive credit for the excluded service under the provisions  
 7 of 19-3-505;

8 ~~(14)~~(15) the chief administrative officer of any city  
 9 or county where the chief administrative officer has filed  
 10 an election in writing with the board to be excluded from  
 11 membership, this election to be filed no later than July 1,  
 12 1979, or 30 days after initial employment by a county or  
 13 city, whichever is later;

14 ~~(15)~~(16) all former members receiving a retirement  
 15 allowance, other than as a beneficiary, serving in  
 16 employment if that employment does not exceed 60 working  
 17 days in any calendar year. These former members must be  
 18 reinstated into membership on the 61st working day in any  
 19 calendar year unless they elect to return to membership  
 20 prior to that day."

21 Section 4. Section 19-4-302, MCA, is amended to read:

22 "19-4-302. Active membership -- exclusion. (1) Unless  
 23 otherwise provided by this chapter or subsection (4), the  
 24 following persons must be active members of the retirement  
 25 system, with the exception that those persons who became

1 eligible for membership on September 1, 1937, or on  
 2 September 1, 1939, and who elected not to become members  
 3 under the provisions of the law at that time are not  
 4 required to be members:

5 (a) any person who is a teacher, principal, or  
 6 district superintendent as defined in 20-1-101;

7 (b) any person who is an administrative officer or a  
 8 member of the instructional or scientific staff of a unit of  
 9 the Montana university system;

10 (c) any person employed in an instructional services  
 11 capacity by the office of the superintendent of public  
 12 instruction, the office of a county superintendent, a  
 13 special education cooperative, a public institution of the  
 14 state of Montana, the Montana state school for the deaf and  
 15 blind, or a school district;

16 (d) any person who has elected not to become a member  
 17 of the retirement system and is reentering service in a  
 18 capacity prescribed by (a), (b), or (c) of this subsection  
 19 (1);

20 (e) any person who has elected not to become a member  
 21 of the retirement system, who has been continuously employed  
 22 in a capacity prescribed by (a), (b), or (c) of this  
 23 subsection (1) since the time of such election, and who may  
 24 thereafter elect to become a member of the retirement  
 25 system.

1 (2) In order to be eligible for active membership, any  
2 person described in subsection (1) must:

3 (a) be employed in the capacity prescribed for his  
4 eligibility for at least 30 days in any fiscal year; and

5 (b) have the compensation for his creditable service  
6 totally paid by an employer as defined herein.

7 (3) At any time a person's eligibility to become a  
8 member of the retirement system is in doubt, the retirement  
9 board shall determine his eligibility for membership. All  
10 persons in similar circumstances shall be treated alike.

11 (4) A person hired after [the effective date of this  
12 act] may not be a member of the retirement system if he is  
13 receiving a retirement allowance, except for social security  
14 benefits, from any other retirement system requiring  
15 contributions from the federal government or a state or  
16 local governing body."

17 Section 5. Section 19-4-303, MCA, is amended to read:

18 "19-4-303. Inactive membership. Any person's active  
19 membership in the retirement system shall terminate, but he  
20 shall be an inactive member, when:

21 (1) he ceases to be employed in a capacity that allows  
22 his membership and he has 5 or more years of creditable  
23 service in the retirement system;

24 (2) he ceases to be employed in a capacity that allows  
25 his membership and he has less than 5 years of creditable

1 service in the retirement system, but his loss of capacity  
2 to be a member was caused by a personal illness determined  
3 by the retirement board to be a disability or was caused by  
4 service in the armed forces of the United States, which  
5 includes the army, navy, marine corps, air force, and coast  
6 guard, or by service in the American red cross or merchant  
7 marine during time of war; or

8 (3) he has 5 or more years creditable service and he  
9 becomes a member of any other retirement or pension system  
10 supported wholly or in part by moneys of another government  
11 agency, except the federal social security retirement  
12 system, and the membership in the other retirement system  
13 would allow credit for the same employment service in two  
14 retirement systems. However, no person hired on or before  
15 [the effective date of this act] shall be excluded from  
16 active membership solely because he is receiving or is  
17 eligible to receive retirement benefits from another  
18 retirement system."

19 Section 6. Section 19-5-301, MCA, is amended to read:

20 "19-5-301. Membership. (1) Except as provided in  
21 subsection (2), a judge of a district court or a justice of  
22 the supreme court must be a member of the Montana judges'  
23 retirement system.

24 ~~(1)~~(2) (a) A judge or justice who was a member of the  
25 PERS public employees' retirement system prior to December

1 31, 1984, may elect to remain under that system by notifying  
2 the public employees' retirement board in writing of the  
3 election on or before October 1, 1985.

4 ~~(2)--Every other judge of a district court or justice~~  
5 ~~of the supreme court must be a member of the Montana judges'~~  
6 ~~retirement system.~~

7 (b) A judge or justice initially elected or appointed  
8 after [the effective date of this act] may not be a member  
9 of the retirement system if he is receiving a retirement  
10 allowance, except for social security benefits, from any  
11 other retirement system requiring contributions from the  
12 federal government or a state or local governing body."

13 Section 7. Section 19-6-301, MCA, is amended to read:

14 "19-6-301. Membership. ~~At~~ (1) Except as provided in  
15 subsection (2), all members of the Montana highway patrol,  
16 including the supervisor and assistant supervisors, must be  
17 members of the retirement system.

18 (2) A highway patrolman hired after [the effective  
19 date of this act] may not be a member of the retirement  
20 system if he is receiving a retirement allowance, except for  
21 social security benefits, from any other retirement system  
22 requiring contributions from the federal government or a  
23 state or local governing body."

24 Section 8. Section 19-7-301, MCA, is amended to read:

25 "19-7-301. Membership. ~~Every~~ (1) (a) Except as

1 provided in subsection (2), every sheriff is required to  
2 become a member of the sheriffs' retirement system on July  
3 1, 1974, unless he was previously a member of the public  
4 employees' retirement system, in which case he may at his  
5 option become a member of the sheriffs' retirement system.  
6 All sheriffs who become members of the sheriffs' retirement  
7 system must remain members so long as actively employed in  
8 such capacity.

9 (b) A sheriff initially elected or appointed after  
10 July 1, 1974, must become a member of the sheriffs'  
11 retirement system on the first day of his term of office or  
12 employment.

13 (2) A sheriff initially elected or appointed after  
14 [the effective date of this act] may not be a member of the  
15 retirement system if he is receiving a retirement allowance,  
16 except for social security benefits, from any other  
17 retirement system requiring contributions from the federal  
18 government or a state or local governing body."

19 Section 9. Section 19-7-501, MCA, is amended to read:

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

1 90 days from the desired date of retirement.

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

5 Section 10. Section 19-8-301, MCA, is amended to read:

6 "19-8-301. Membership. (1) Except as provided in  
7 19-8-302 and subsection (2), each state game warden,  
8 including all warden supervisory personnel, whose salary or  
9 compensation for services is paid out of the department of  
10 fish, wildlife, and parks moneys and who is assigned to law  
11 enforcement in the department of fish, wildlife, and parks  
12 shall become a member of the retirement system when first  
13 becoming a state game warden. Except as provided in 19-8-302  
14 and subsection (2), all state game wardens shall be members  
15 of the retirement system so long as actively employed in  
16 that capacity.

17 (2) A state game warden hired after [the effective  
18 date of this act] may not be a member of the retirement  
19 system if he is receiving a retirement allowance, except for  
20 social security benefits, from any other retirement system  
21 requiring contributions from the federal government or a  
22 state or local governing body."

23 Section 11. Section 19-9-104, MCA, is amended to read:

24 "19-9-104. Definitions. Unless the context requires  
25 otherwise, the following definitions apply in this chapter:

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

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

5 (3) "Board" means the retirement board described in  
6 2-15-1009.

7 (4) "Credited service" means the aggregate of a  
8 member's prior service and membership service.

9 (5) "Death benefit" means a monthly annuity paid to a  
10 surviving spouse or dependent child or a lump-sum payment  
11 made to a beneficiary on behalf of a member who dies before  
12 retirement.

13 (6) "Dependent child" means a child of a deceased  
14 member:

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

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

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

22 (8) "Employer annuity" means monthly payments for life  
23 derived from employer and state contributions.

24 (9) "Final average salary" means the monthly  
25 compensation of a member, averaged over the last 36 months



1 of his active service or, in the event he has not been a  
2 member that long, over the period of his membership.

3 (10) "Fund" means the pension trust fund in the  
4 treasury system designated for the use of the plan.

5 (11) "Member" means a person who is employed by an  
6 employer as a police officer or who is entitled to a  
7 retirement allowance by virtue of his service to an employer  
8 as a police officer, except as provided in 19-9-301(3).

9 (12) "Member contributions" means the total of the  
10 deductions from the compensation of a member, either made  
11 during a period of active membership hereunder or made under  
12 a prior plan and transferred to this plan, standing to his  
13 credit, together with the interest thereon.

14 (13) "Member's annuity" means monthly payments for life  
15 derived from member contributions.

16 (14) "Membership service" means a period of employment  
17 with an employer occurring after June 30, 1977, during which  
18 the withholdings required by this chapter have been made  
19 from a member's monthly compensation and credited to his  
20 member contributions account. Pro rata credit shall be  
21 granted for employment on a part-time basis or for  
22 employment over a period of less than a complete fiscal  
23 year.

24 (15) "Minimum retirement date" or "normal retirement  
25 date" means the first day of the month coinciding with or

1 immediately following, if none coincides, the date on which  
2 a member becomes both age 50 or older and completes 20 or  
3 more years of credited service.

4 (16) "Monthly compensation" means the wage, excluding  
5 overtime, holiday payments, shift differential payments,  
6 compensation time payments, and payments in lieu of sick  
7 leave and annual leave, a member receives as an active  
8 police officer.

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

15 (18) "Plan" means the municipal police officers'  
16 retirement system created by this chapter.

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

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

24 (21) "Prior service" means a period of employment as a  
25 police officer for which credit was granted to a member

1 under a prior plan and has been transferred to this plan.

2 (22) "Retirement allowance" means the employer annuity  
3 plus the member's annuity.

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

7 (24) "Surviving spouse" means the spouse married to a  
8 member at the time of the member's death.

9 (25) "Totally and permanently disabled" means that the  
10 board, upon certification by a licensed and practicing  
11 physician, has determined that a member's disability is of  
12 such a nature as to permanently impair his ability to  
13 discharge his normal duties as a police officer."

14 Section 12. Section 19-9-301, MCA, is amended to read:

15 "19-9-301. Active membership. (1) A Except as provided  
16 in subsection (3), a police officer becomes an active member  
17 under the plan:

18 (a) on the date his employment by an employer  
19 commences;

20 (b) on July 1, 1977, if he is employed by an employer  
21 on that date; or

22 (c) in the case of an employer which elects to join  
23 the plan as provided in 19-9-107, on the effective date of  
24 such election if he is employed by the employer on that  
25 date.

1 (2) Upon becoming eligible for membership, he shall  
2 complete such forms and furnish such proof as may be  
3 required by the board.

4 (3) A police officer hired after [the effective date  
5 of this act] may not be a member of the retirement system if  
6 he is receiving a retirement allowance, except for social  
7 security benefits, from any other retirement system  
8 requiring contributions from the federal government or a  
9 state or local governing body."

10 NEW SECTION. Section 13. Ineligibility for service,  
11 disability, or survivorship benefits. A police officer hired  
12 after [the effective date of this act] or his beneficiary is  
13 ineligible to receive service, disability, or survivorship  
14 benefits from the police retirement fund if the officer is  
15 receiving a retirement allowance, except for social security  
16 benefits, from any other retirement system requiring  
17 contributions from the federal government or a state or  
18 local governing body.

19 Section 14. Section 19-10-302, MCA, is amended to  
20 read:

21 "19-10-302. Officer's contribution deducted from  
22 salary. The treasurer of an incorporated city which has a  
23 police retirement fund shall retain from the monthly salary  
24 of each police officer on the active list, except those  
25 officers ineligible for benefits under [section 13], a sum

1 equal to 6% of his monthly compensation for his services as  
 2 a police officer, exclusive of overtime and payments made in  
 3 lieu of sick leave and annual leave. The monthly deduction  
 4 from the salaries of police officers must be paid into the  
 5 city's police retirement fund for the purpose of paying the  
 6 salaries of police officers on the retired list."

7 Section 15. Section 19-10-401, MCA, is amended to  
 8 read:

9 "19-10-401. Eligibility for service retirement. ~~The~~  
 10 Except as provided in [section 13], the following persons  
 11 are eligible for the police retired list of a city and shall  
 12 retire as provided in this section:

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

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

24 Section 16. Section 19-10-402, MCA, is amended to  
 25 read:

1 "19-10-402. Eligibility for disability retirement.  
 2 When a police officer, except an officer ineligible for  
 3 benefits under [section 13], receives injuries or  
 4 disabilities in the active discharge of his duties as a  
 5 police officer, which injuries or disabilities are, in the  
 6 opinion of the board of police commissioners or city council  
 7 of the city or town, of such character as to impair his  
 8 ability to discharge his duties as an active police officer,  
 9 he shall be placed on the retired list of the city or town."

10 Section 17. Section 19-10-503, MCA, is amended to  
 11 read:

12 "19-10-503. Death benefits. (1) Upon the death of a  
 13 police officer on the active list or retired list of a city,  
 14 except an officer ineligible for benefits under [section  
 15 13], his surviving spouse, if there is one, shall, as long  
 16 as such spouse remains the surviving spouse, be paid from  
 17 the city's police retirement fund a sum equal to one-half  
 18 the base salary, excluding overtime and payments in lieu of  
 19 sick leave and annual leave, he was receiving as an active  
 20 officer computed on the highest salary received in any one  
 21 month during his last year of active service.

22 (2) If the officer leaves one or more dependent minor  
 23 children, upon his death if he leaves no surviving spouse or  
 24 upon the death or remarriage of the surviving spouse, his  
 25 surviving dependent minor children, collectively if there is

1 more than one, shall receive the same monthly payments as a  
 2 surviving spouse would receive, until they reach the age of  
 3 18 years or are married. The payments shall be made to their  
 4 duly appointed, qualified, and acting guardian for their  
 5 use. If there is more than one such child, upon each child  
 6 reaching the age of 18 or marrying, the pro rata payments to  
 7 that child shall cease and shall be made to the remaining  
 8 children, until all the children have either reached the age  
 9 of 18 or are married."

10 Section 18. Section 19-11-102, MCA, is amended to  
 11 read:

12 "19-11-102. Formation of fire department relief  
 13 association -- membership. (1) The confirmed members of a  
 14 fire department, as defined in 19-11-101, may form a local  
 15 association to be known as the fire department relief  
 16 association of the city or town of .... (naming the city or  
 17 town). When an association is formed, it shall be  
 18 incorporated under the laws of this state. ~~No one~~

19 (2) The following are ineligible for membership in the  
 20 association:

21 (a) a firefighter hired after [the effective date of  
 22 this act] who is receiving a retirement allowance, except  
 23 for social security benefits, from any other retirement  
 24 system requiring contributions from the federal government  
 25 or a state or local governing body; and

1 (b) a firefighter who is serving as a substitute, who  
 2 is on probation, or who has not been confirmed as a member  
 3 of the fire department is eligible--for--membership--in--the  
 4 association.

5 ~~(2)~~ (3) An association may only be formed and  
 6 incorporated if:

7 (a) its formation is authorized by subsection (1); and  
 8 (b) the fire department has firefighting equipment in  
 9 serviceable condition which has a value of \$750 or more."

10 Section 19. Section 19-13-104, MCA, is amended to  
 11 read:

12 "19-13-104. Definitions. Unless the context requires  
 13 otherwise, the following definitions apply in this chapter:

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

16 (2) "Board" means the retirement board described in  
 17 2-15-1009.

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

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

22 (a) unmarried and under age 18; or

23 (b) unmarried, under age 24, and attending an  
 24 accredited postsecondary educational institution as a  
 25 full-time student in anticipation of receiving a certificate

1 or degree.

2 (5) "Employer" means any city that is of the first or  
3 second class or that elects to join this plan under  
4 19-13-108.

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

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

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

14 (9) "Fund" means the pension trust fund in the state  
15 treasury system designated for the use of the plan.

16 (10) "Member" means a person who is employed by an  
17 employer as a full- or part-paid firefighter or who is  
18 entitled to a retirement allowance by virtue of his service  
19 to an employer as a firefighter, except as provided in  
20 19-13-301(4).

21 (11) "Member contributions" means the total of the  
22 deductions from a member's compensation made during a period  
23 of active membership under this chapter or made under a  
24 prior plan and transferred to this plan, standing to his  
25 credit, together with the interest thereon.

1 (12) "Membership service" means a period of employment  
2 with an employer occurring after July 1, 1981, during which  
3 the withholdings required by this chapter have been made  
4 from a member's monthly compensation and credited to his  
5 member contributions account. Pro rata credit shall be  
6 granted for employment on a part-time basis or for  
7 employment over a period of less than a complete fiscal  
8 year.

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

13 (14) "Monthly compensation" means:

14 (a) for a full-paid firefighter, the regular monthly  
15 compensation, excluding overtime, holiday payments, shift  
16 differential payments, compensatory time payments, and  
17 payments in lieu of sick leave, paid by an employer for his  
18 service as a firefighter;

19 (b) for a part-paid firefighter employed by a city of  
20 the second class:

21 (i) 15% of the regular monthly compensation, excluding  
22 overtime, holiday payments, shift differential payments,  
23 compensatory time payments, and payments in lieu of sick  
24 leave, paid on July 1 of each year to a newly confirmed,  
25 full-paid firefighter of the city that employs the part-paid

1 firefighter; or  
 2 (ii) if that city does not employ a full-paid  
 3 firefighter, 15% of the average regular monthly  
 4 compensation, excluding overtime, holiday payments, shift  
 5 differential payments, compensatory time payments, and  
 6 payments in lieu of sick leave, paid on July 1 of each year  
 7 to all newly confirmed, full-paid firefighters employed by  
 8 cities of the second class.

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

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

18 (17) "Plan" means the municipal firefighters'  
 19 retirement system created by this chapter.

20 (18) "Prior plan" means the fire department relief  
 21 association plan of a city that elects to join the plan  
 22 under 19-13-108 or the fire department relief association  
 23 plan of a city of the first or second class.

24 (19) "Prior service" means a period of employment as a  
 25 firefighter for which credit was granted to a member under a

1 prior plan and has been transferred to this plan.

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

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

7 (22) "Surviving spouse" means the spouse married to a  
 8 member at the time of the member's death.

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

14 Section 20. Section 19-13-301, MCA, is amended to  
 15 read:

16 "19-13-301. Active membership. (1) A Except as  
 17 provided in subsection (4), a full-paid firefighter becomes  
 18 an active member under the plan:

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

22 (c) in the case of an employer that elects to join the  
 23 plan as provided in 19-13-108, on the effective date of such  
 24 election if he is employed by the employer on that date.

25 (2) Upon becoming eligible for membership, he shall

1 complete the forms and furnish any proof required by the  
2 board.

3 (3) A Except as provided in subsection (4), a  
4 part-paid firefighter may elect to become a member of the  
5 plan by filing a membership application with the board.

6 (4) A full-paid or part-paid firefighter hired after  
7 [the effective date of this act] may not be a member of the  
8 retirement system if he is receiving a retirement allowance,  
9 except for social security benefits, from any other  
10 retirement system requiring contributions from the federal  
11 government or a state or local governing body."

12 NEW SECTION. Section 21. Codification instruction.  
13 Section 13 is intended to be codified as an integral part of  
14 Title 19, chapter 10, and the provisions of Title 19,  
15 chapter 10, apply to section 13.

16 NEW SECTION. Section 22. Extension of authority. Any  
17 existing authority of the public employees' retirement board  
18 to make rules on the subject of the provisions of this act  
19 is extended to the provisions of this act.

20 NEW SECTION. Section 23. Effective date. This act is  
21 effective July 1, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB191, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act excluding certain public employees who are receiving retirement allowances from other public retirement plans from membership in the Public Employees', Teachers', Judges', Highway Patrolmen's, Sheriffs', Game Wardens', Municipal Police Officers', Local Police, Local Fire Fighters' and Fire Fighters' Unified Retirement Systems.

ASSUMPTIONS:

1. Assume electronic verification of pensions is only possible between State of Montana-administered retirement systems.
2. Assume programming costs of cross-verify state system memberships will not exceed \$1,600. Individual cross-verification computer runs will not exceed \$600 each. Assume cross-verification runs will occur quarterly.
3. Assume new membership application forms will obtain certification from new members that they are not receiving another public pension. Assume 1 FTE (split between PERD and TRD) Grade 9 Audit Technician will be necessary to verify certifications.
4. Assume there will be decreased membership and salary base in each retirement system. There is no way to estimate what this decrease might be since we have no current idea of how many people are currently receiving a public pension and are active members of one of Montana's public pension systems.
5. Assume there will be court suits filed to test this new law -- no cost estimates are made in this note.

FISCAL IMPACT:

	<u>FY 88</u>	<u>FY89</u>
Personal Services	\$16,112	\$16,112
Operating	<u>4,000</u>	<u>2,400</u>
(Programming & Verification Runs)	\$20,112	\$18,512


Funding:

PERS & TRS Trust Funds	\$20,112	\$18,512
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(The appropriation needs to be split between the two agencies, since both are impacted and both will utilize the data)

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Possible decrease in employer contribution rates; no estimates are available.

 DATE 1/27/87  
DAVID L. HUNTER, BUDGET DIRECTOR  
Office of Budget and Program Planning

 DATE 1/28/87  
PAUL BOYLAN, PRIMARY SPONSOR

Fiscal Note for SB191, as introduced.

SB 191



Fiscal Note Request, SB191, as introduced.

Form BD-15

Page 2

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

If there turns out to be significant numbers of people prohibited from joining retirement systems as a result of this legislation, the contribution rate required to amortize the current unfunded liability of the system will increase, resulting in larger employer contribution rates in the future. This will be costed in the regular biennial actuarial valuations and has not been projected here.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

1. There is no way to verify recipients of federal or other-state public pensions.
2. Attorneys advise us this may well violate the right to equal protection as well as other federal and state laws.
3. Current mechanical defect in amendment proposed to 19-3-403(8) is assumed will be corrected in committee.
4. Bill does not address persons joining state retirement systems after 7/1/87 who begin receiving another public pension after their date of hire.