

House BILL NO. 490

INTRODUCED BY

Spink *Tasso*
Quinn *Hayes* *Ever* *Dredy* *W. Ryan*
Cochiarola *Unger* *Shea* *Ahner* *H. H. Johnson*
Menahan *Beck* *Battlett* *Wab*

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE STATE EMPLOYEE PROTECTION ACT; CLARIFYING THE DEFINITION OF EMPLOYEE; AUTHORIZING ADDITIONAL SERVICE AS AN ALTERNATIVE TO BENEFITS UNDER THE STATE EMPLOYEE PROTECTION ACT FOR A MEMBER WHO IS INVOLUNTARILY TERMINATED FROM MEMBERSHIP BY A REDUCTION IN FORCE, ABOLISHMENT OR MERGER OF AN AGENCY, OR RESTRUCTURING OF STATE AGENCIES BY LEGISLATIVE ACTION; AMENDING SECTIONS 2-18-1202, 2-18-1203, 2-18-1204, AND 2-18-1205, MCA; REPEALING SECTION 11, CHAPTER 477, LAWS OF 1993; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE."

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

Section 1. Section 2-18-1202, MCA, is amended to read:

"2-18-1202. ~~(Temporary)~~ Definitions. As used in this part, the following definitions apply:

(1) "Agency" has the meaning provided in 2-18-101 but does not include the Montana university system.

(2) "Employee" means a person employed by the state who has achieved permanent status, as defined in 2-18-101, or ~~employed by the senate or house of representatives during the 53rd legislature for a period of at least 8 continuous weeks~~ officers and employees of the legislative branch and teachers under the authority of the department of corrections and human services or department of family services who have been employed for at least 6 continuous months.

(3) "Privatization" means contracting with the private sector to provide a service normally or traditionally provided directly by an employee of an agency. ~~(Terminates July 1, 1995 - sec. 11, Ch. 477, L. 1993.)~~"

Section 2. Section 2-18-1203, MCA, is amended to read:

"2-18-1203. ~~(Temporary)~~ General protection -- job register -- seniority preference. (1) An employee whose position is eliminated as a result of privatization, reorganization of an agency, or closure of or a

1 reduction in force at an agency, or other actions by the legislature is entitled to:

2 (a) notice of announcements for jobs for which the employee may qualify that arise within the
3 terminating agency or within state government. Notices must be provided by the state for a period of 1 year
4 from the date of separation.

5 (b) access to any job retraining and career development programs provided by the state through
6 the Job Training Partnership Act service delivery areas dislocated worker programs, provided that the
7 employee begins participating in a program within 1 year after the elimination of the employee's position;
8 and

9 (c) inclusion in a special job register from which all agencies, except an agency attempting to hire
10 for a position exempt under 2-18-103 or 2-18-104, shall attempt to hire employees prior to seeking
11 applications from the general public. The employee must be listed in the job register according to the
12 occupational categories in which the employee is qualified for employment.

13 (2) (a) An agency attempting to hire from the job register shall consider the employee's
14 qualifications and length of state service. If two or more employees listed in the job register are equally
15 qualified for a vacant position, the agency shall select the employee with the longest continuous state
16 service.

17 (b) If there is not an employee listed on the job register who meets the job qualifications for the
18 vacant position, the agency may hire a qualified external applicant or establish a training assignment,
19 according to state policy. ~~(Terminates July 1, 1995 - sec. 11, Ch. 477, L. 1993.)~~"

20

21 **Section 3.** Section 2-18-1204, MCA, is amended to read:

22 **"2-18-1204. ~~(Temporary)~~ Salary and benefits protection -- employee transfer.** (1) An employee
23 whose position is eliminated as a result of privatization, reorganization of an agency, ~~or~~ closure of or a
24 reduction in force at an agency, or other actions by the legislature and who is subsequently transferred to
25 a different position in a state agency is entitled to:

26 (a) the same hourly salary as previously received if the new position is at the same grade level as
27 the one previously held;

28 (b) retain all accrued sick leave credits;

29 (c) retain, cash out, or use accrued vacation leave credits to extend the employee's effective layoff
30 date; and

1 (d) relocation expenses as provided in state policy.

2 (2) Relocation expenses must be paid by the hiring agency, and the funds expended by the hiring
3 agency must be reimbursed from the funds appropriated for this purpose, including those funds subject to
4 transfer under the provisions of [section 4]. ~~(Terminates July 1, 1995 sec. 11, Ch. 477, L. 1993.)~~"

5
6 **Section 4.** Section 2-18-1205, MCA, is amended to read:

7 **"2-18-1205. ~~(Temporary)~~ Continuation of health insurance and employer contributions.** (1) During
8 the period of unemployment as a result of privatization, reorganization of an agency, ~~or~~ closure of or a
9 reduction in force at an agency, or other actions by the legislature, the employee is entitled to remain
10 covered by the state's group health insurance plan and to the continuation of the employer's contribution
11 to the employee's group health insurance for 6 months from the effective date of layoff or until the
12 employee becomes employed, whichever occurs first. ~~This section does not apply to employees of the~~
13 ~~senate or house of representatives.~~

14 (2) For the purposes of this section, the term "agency" includes the Montana university system.
15 ~~(Terminates July 1, 1995 sec. 11, Ch. 477, L. 1993.)~~"

16
17 **NEW SECTION. Section 5. Additional service for member involuntarily terminated from**
18 **membership service.** (1) An employee of the state or university system is entitled to the involuntary
19 termination provision provided in subsection (2) if:

20 (a) the employee is a member of the public employees', game wardens', sheriffs', or highway patrol
21 officers' retirement system;

22 (b) (i) the employee's active service is involuntarily terminated because of a reduction in force on
23 or after January 1, 1995, but before July 1, 1997; or

24 (ii) the employee is a member of an agency or program that is abolished or merged into another
25 agency or program as identified by legislative action and volunteers to retire or resign to assist the state
26 in reducing the number of employees or in restructuring state agencies;

27 (c) the employee is eligible for a normal service retirement or early retirement under the applicable
28 provisions of the retirement system to which the member belongs; and

29 (d) the employee waives termination benefits for which the employee would otherwise be eligible
30 under the State Employee Protection Act.

1 (2) The employer of an eligible member under subsection (1) shall pay the total actuarial cost, as
2 determined by the board and based upon the most recent actuarial valuation of the system, of purchasing
3 up to 3 years of additional service that the member was qualified to purchase under 19-3-513, [sections
4 2 and 3 of House Bill No. 324], or 19-7-804. A member is entitled to a refund for that portion of previously
5 purchased additional service that would otherwise cause the member to be unqualified to receive all or part
6 of the additional service provided in this section.

7 (3) A retired member who was involuntarily terminated because of a reduction in force on or after
8 January 1, 1995, but before [the effective date of this act] and whose effective date of retirement was
9 before [the effective date of this act] is eligible for the involuntary termination benefits described in this
10 section if a properly completed application for those benefits is received by the division on or before June
11 1, 1995.

12 (4) The board may allow an employer to pay the contributions required under subsection (2) in
13 installments for up to 10 years and may charge interest at a rate set by the board pursuant to 19-2-403.

14 (5) A member who has received additional service under this section and who returns to
15 employment for the same jurisdiction for 600 or more hours in a calendar year forfeits the additional
16 service. The employer's contribution to purchase that member's additional service, minus any retirement
17 benefits already paid, must be refunded to the employer. As used in this subsection, the same jurisdiction
18 means all agencies of the state, including the university system.

19
20 NEW SECTION. **Section 6. Authority to transfer funding.** When authorized by the approving
21 authority, an agency may transfer appropriations from fiscal year 1995 to fiscal year 1996 and
22 appropriations from fiscal year 1996 to fiscal year 1997 to fund the provisions of [this act].

23
24 NEW SECTION. **Section 7. Appropriation.** There is appropriated \$39,408 from the general fund
25 to the department of labor and industry for each of the fiscal years 1996 and 1997 to fund the job registry
26 established in 2-18-1203.

27
28 NEW SECTION. **Section 8. Repealer.** Section 11, Chapter 477, Laws of 1993, is repealed.

29
30 NEW SECTION. **Section 9. Codification instruction.** [Section 5] is intended to be codified as an

1 integral part of Title 19, chapter 2, part 7, and the provisions of Title 19, chapter 2, part 7, apply to
2 [section 5].

3

4 **NEW SECTION. Section 10. Retroactive applicability.** [Section 5] applies retroactively, within the
5 meaning of 1-2-109, to an employee involuntarily terminated from the state or university system because
6 of a reduction in force on or after January 1, 1995.

7

8 **NEW SECTION. Section 11. Coordination instruction.** If House Bill No. 324 is not passed and
9 approved, then [section 5(1) and (2) of this act] must read as follows:

10 "(1) An employee of the state or university system is entitled to the involuntary termination
11 provision provided in subsection (2) if:

12 (a) the employee is a member of the public employees' or sheriffs' retirement system;

13 (b) (i) the employee's active service is involuntarily terminated because of a reduction in force on
14 or after January 1, 1995, but before July 1, 1997; or

15 (ii) the employee is a member of an agency or program that is abolished or merged into another
16 agency or program as identified by legislative action and volunteers to retire or resign to assist the state
17 in reducing the number of employees or in restructuring state agencies;

18 (c) the employee is eligible for a normal service retirement or early retirement under the applicable
19 provisions of the retirement system to which the member belongs; and

20 (d) the employee waives termination benefits for which the employee would otherwise be eligible
21 under the State Employee Protection Act.

22 (2) The employer of an eligible member under subsection (1) shall pay the total actuarial cost, as
23 determined by the board and based upon the most recent actuarial valuation of the system, of purchasing
24 up to 3 years of additional service that the member was qualified to purchase under 19-3-513 or 19-7-804.

25 A member is entitled to a refund for that portion of previously purchased additional service that would
26 otherwise cause the member to be unqualified to receive all or part of the additional service provided in this
27 section."

28

29 **NEW SECTION. Section 12. Effective date.** [This act] is effective on passage and approval.

30

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0490, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act extending the State Employee Protection Act (SEPA) and clarifying the definition of employee; authorizing additional service as an alternative to benefits under the SEPA for a member who is involuntarily terminated from membership by a reduction in force, abolishment or merger of an agency, or restructuring of state agencies by legislative action.

ASSUMPTIONS:

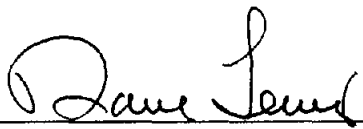
Note: The following assumptions are intended for purposes of illustration only, and do not reflect a projection of actual layoff plans by state agencies.

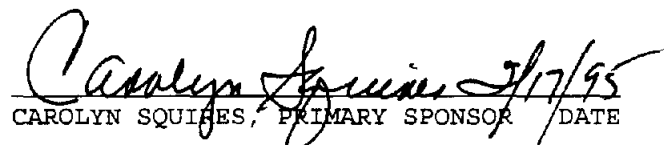
1. Assume that 100 employees, eligible for HB490 benefits, are laid off between July 1, 1995 and June 30, 1996.
2. Assume 35 employees are rehired by state agencies after an average absence of 3 months. Total insurance cost of \$23,100 (35 x 3 months x \$220).
3. Assume 60 employees are not rehired by state agencies and remain eligible for the health insurance contribution for 6 months. Total insurance cost of \$79,200 (60 x 6 months x \$220).
4. Assume half of the 60 who are not rehired elect to receive job re-training and the average cost to re-train is \$2,300. Total training cost of \$69,000 (30 x \$2,300).
5. Assume 10 employees are eligible for relocation expenses and those expenses average \$3,000 per relocated employee. Total relocation cost of \$30,000 (10 x \$3,000).
6. Assume 5 employees are eligible to retire and take advantage of purchasing 3 years of additional retirement service. The average cost of the purchase will be \$22,000 per retiree which can be paid off by the employer in a lump sum or over as many as 10 years, with interest at 8%. All RIFd employees will be members of the PERS. Total early retirement cost of \$110,000 (5 x \$22,000).
7. The summation of the costs above is \$311,300, which represents the approximate cost of through HB490 if 100 employees are RIFd. The costs would be paid through FY95 reversions, and through FY96 and FY97 vacancy savings and reversions.

FISCAL IMPACT:

The only direct cost of HB490 is the continuation of the job registry for RIFd employees. This retains 1.00 FTE in the Department of Labor and Industry at a total biennium cost of \$78,816 from the general fund. This amount is appropriated in Section 7 of this bill. The other costs will be absorbed by the affected agencies.

An agency may elect to pay for the early retirement costs over a 10 year period if insufficient vacancy savings funds exist in the 1997 biennium.

 2-16-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2/17/95
CAROLYN SQUIBBS, PRIMARY SPONSOR DATE

Fiscal Note for HB0490, as introduced

HB 490

1 HOUSE BILL NO. 490

2 INTRODUCED BY SQUIRES, HARPER, EWER, GRADY, RYAN, LYNCH, TUSS, COCCHIARELLA,
3 ELLINGSON, SHEA, AHNER, HIBBARD, J. JOHNSON, MENAHAN, BECK, BARTLETT, WATERMAN
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5 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE STATE EMPLOYEE PROTECTION ACT;
6 CLARIFYING THE DEFINITION OF EMPLOYEE; AUTHORIZING ADDITIONAL SERVICE AS AN ALTERNATIVE
7 TO BENEFITS UNDER THE STATE EMPLOYEE PROTECTION ACT FOR A MEMBER WHO IS
8 INVOLUNTARILY TERMINATED FROM MEMBERSHIP BY A REDUCTION IN FORCE, ABOLISHMENT OR
9 MERGER OF AN AGENCY, OR RESTRUCTURING OF STATE AGENCIES BY LEGISLATIVE ACTION;
10 AMENDING SECTIONS 2-18-1202, 2-18-1203, 2-18-1204, AND 2-18-1205, MCA; REPEALING SECTION
11 11, CHAPTER 477, LAWS OF 1993; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE
12 EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE."
13

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

16 **Section 1.** Section 2-18-1202, MCA, is amended to read:

17 **"2-18-1202. ~~(Temporary)~~ Definitions.** As used in this part, the following definitions apply:

18 (1) "Agency" has the meaning provided in 2-18-101 but does not include the Montana university
19 system.

20 (2) "Employee" means a person employed by the state who has achieved permanent status, as
21 defined in 2-18-101, or ~~employed by the senate or house of representatives during the 53rd legislature for~~
22 ~~a period of at least 8 continuous weeks~~ officers and employees of the legislative branch and teachers under
23 the authority of the department of corrections and human services or department of family services who
24 have been employed for at least 6 continuous months AND WHO HAVE WAIVED BENEFITS UNDER THE
25 PROVISIONS OF [HOUSE BILL NO. 106].

26 (3) "Privatization" means contracting with the private sector to provide a service normally or
27 traditionally provided directly by an employee of an agency. ~~(Terminates July 1, 1995—see. 11, Ch. 477,~~
28 ~~L. 1993.)~~"
29

30 **Section 2.** Section 2-18-1203, MCA, is amended to read:

1 "2-18-1203. ~~(Temporary)~~ **General protection -- job register -- seniority preference.** (1) An
2 employee whose position is eliminated as a result of privatization, reorganization of an agency, ~~or~~ closure
3 of or a reduction in force at an agency, or other actions by the legislature is entitled to:

4 (a) notice of announcements for jobs for which the employee may qualify that arise within the
5 terminating agency or within state government. Notices must be provided by the state for a period of 1
6 year from the date of separation.

7 (b) access to any job retraining and career development programs provided by the state through
8 the Job Training Partnership Act service delivery areas dislocated worker programs, provided that the
9 employee begins participating in a program within 1 year after the elimination of the employee's position;
10 and

11 (c) inclusion in a special job register from which all agencies, except an agency attempting to hire
12 for a position exempt under 2-18-103 or 2-18-104, shall attempt to hire employees prior to seeking
13 applications from the general public. The employee must be listed in the job register according to the
14 occupational categories in which the employee is qualified for employment.

15 (2) (a) An agency attempting to hire from the job register shall consider the employee's
16 qualifications and length of state service. If two or more employees listed in the job register are equally
17 qualified for a vacant position, the agency shall select the employee with the longest continuous state
18 service.

19 (b) If there is not an employee listed on the job register who meets the job qualifications for the
20 vacant position, the agency may hire a qualified external applicant or establish a training assignment,
21 according to state policy. ~~(Terminates July 1, 1995 sec. 11, Ch. 477, L. 1993.)~~"

22
23 **Section 3.** Section 2-18-1204, MCA, is amended to read:

24 "2-18-1204. ~~(Temporary)~~ **Salary and benefits protection -- employee transfer.** (1) An employee
25 whose position is eliminated as a result of privatization, reorganization of an agency, ~~or~~ closure of or a
26 reduction in force at an agency, or other actions by the legislature and who is subsequently transferred to
27 a different position in a state agency is entitled to:

28 (a) the same hourly salary as previously received if the new position is at the same grade level OR
29 HIGHER as the one previously held;

30 (b) retain all accrued sick leave credits;

1 (c) retain, cash out, or use accrued vacation leave credits to extend the employee's effective layoff
2 date; and

3 (d) relocation expenses as provided in state policy.

4 (2) Relocation expenses must be paid by the hiring agency, and the funds expended by the hiring
5 agency must be reimbursed from the funds appropriated for this purpose, including those funds subject to
6 transfer under the provisions of [section 4 6]. ~~(Terminates July 1, 1995 see. 11, Ch. 477, L. 1993.)~~"
7

8 **Section 4.** Section 2-18-1205, MCA, is amended to read:

9 **"2-18-1205. ~~(Temporary)~~ Continuation of health insurance and employer contributions.** (1) During
10 the period of unemployment as a result of privatization, reorganization of an agency, ~~or~~ closure of or a
11 reduction in force at an agency, or other actions by the legislature, the employee is entitled to remain
12 covered by the state's group health insurance plan and to the continuation of the employer's contribution
13 to the employee's group health insurance for 6 months from the effective date of layoff or until the
14 employee becomes employed, whichever occurs first. ~~This section does not apply to employees of the~~
15 ~~senate or house of representatives.~~

16 (2) For the purposes of this section, the term "agency" includes the Montana university system.
17 ~~(Terminates July 1, 1995 see. 11, Ch. 477, L. 1993.)~~"
18

19 **NEW SECTION. Section 5. Additional service for member involuntarily terminated from**
20 **membership service.** (1) An employee of the state or university system is entitled to the involuntary
21 termination provision provided in subsection (2) if:

22 (a) the employee is a member of the public employees', game wardens', sheriffs', or highway patrol
23 officers' retirement system;

24 (b) ~~(i)~~ the employee's active service is involuntarily terminated because of ELIMINATION OF THE
25 EMPLOYEE'S POSITION AS A RESULT OF PRIVATIZATION, REORGANIZATION OF AN AGENCY, CLOSURE
26 OF OR a reduction in force AT AN AGENCY, OR OTHER ACTIONS BY THE LEGISLATURE on or after
27 January 1, 1995, but before July 1, 1997; ~~or~~

28 ~~(ii) the employee is a member of an agency or program that is abolished or merged into another~~
29 ~~agency or program as identified by legislative action and volunteers to retire or resign to assist the state~~
30 ~~in reducing the number of employees or in restructuring state agencies;~~

1 (c) the employee is eligible for a normal service retirement or early retirement under the applicable
2 provisions of the retirement system to which the member belongs; and

3 (d) the employee waives termination benefits for which the employee would otherwise be eligible
4 under the State Employee Protection Act.

5 (2) The employer of an eligible member under subsection (1) shall pay the total actuarial cost, as
6 determined by the board and based upon the most recent actuarial valuation of the system, of purchasing
7 up to 3 years of additional service that the member was qualified to purchase under 19-3-513, [sections
8 2 and 3 of House Bill No. 324], or 19-7-804. A member is entitled to a refund for that portion of previously
9 purchased additional service that would otherwise cause the member to be unqualified to receive all or part
10 of the additional service provided in this section.

11 (3) A retired member who was involuntarily terminated because of a reduction in force on or after
12 January 1, 1995, but before [the effective date of this act] and whose effective date of retirement was
13 before [the effective date of this act] is eligible for the involuntary termination benefits described in this
14 section if a properly completed application for those benefits is received by the division on or before June
15 1, 1995.

16 (4) The board may allow an employer to pay the contributions required under subsection (2) in
17 installments for up to 10 years and may charge interest at a rate set by the board pursuant to 19-2-403.

18 (5) A member who has received additional service under this section and who returns to
19 employment for the same jurisdiction for 600 or more hours in a calendar year forfeits the additional
20 service. The employer's contribution to purchase that member's additional service, minus any retirement
21 benefits already paid, must be refunded to the employer. As used in this subsection, the same jurisdiction
22 means all agencies of the state, including the university system.

23
24 **NEW SECTION. Section 6. Authority to transfer funding.** When authorized by the approving
25 authority, an agency may transfer appropriations from fiscal year 1995 to fiscal year 1996 and
26 appropriations from fiscal year 1996 to fiscal year 1997 to fund the provisions of [this act].

27
28 **NEW SECTION. Section 7. Appropriation.** There is appropriated \$39,408 from the general fund
29 to the department of labor and industry for each of the fiscal years 1996 and 1997 to fund the job registry
30 established in 2-18-1203.

1 NEW SECTION. **Section 8. Repealer.** Section 11, Chapter 477, Laws of 1993, is repealed.

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3 NEW SECTION. **Section 9. Codification instruction.** [Section 5] is intended to be codified as an
4 integral part of Title 19, chapter 2, part 7, and the provisions of Title 19, chapter 2, part 7, apply to
5 [section 5].

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7 NEW SECTION. **Section 10. Retroactive applicability.** [Section 5] applies retroactively, within the
8 meaning of 1-2-109, to an employee involuntarily terminated from the state or university system because
9 of ELIMINATION OF THE EMPLOYEE'S POSITION AS A RESULT OF PRIVATIZATION, REORGANIZATION
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13 NEW SECTION. **Section 11. Coordination instruction.** If House Bill No. 324 is not passed and
14 approved, then [section 5(1) and (2) of this act] must read as follows:

15 "(1) An employee of the state or university system is entitled to the involuntary termination
16 provision provided in subsection (2) if:

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18 (b) ~~(i)~~ the employee's active service is involuntarily terminated because of ELIMINATION OF THE
19 EMPLOYEE'S POSITION AS A RESULT OF PRIVATIZATION, REORGANIZATION OF AN AGENCY, CLOSURE
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21 January 1, 1995, but before July 1, 1997; ~~or~~

22 ~~(iii) the employee is a member of an agency or program that is abolished or merged into another~~
23 ~~agency or program as identified by legislative action and volunteers to retire or resign to assist the state~~
24 ~~in reducing the number of employees or in restructuring state agencies;~~

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26 provisions of the retirement system to which the member belongs; and

27 (d) the employee waives termination benefits for which the employee would otherwise be eligible
28 under the State Employee Protection Act.

29 (2) The employer of an eligible member under subsection (1) shall pay the total actuarial cost, as
30 determined by the board and based upon the most recent actuarial valuation of the system, of purchasing

1 up to 3 years of additional service that the member was qualified to purchase under 19-3-513 or 19-7-804.
2 A member is entitled to a refund for that portion of previously purchased additional service that would
3 otherwise cause the member to be unqualified to receive all or part of the additional service provided in this
4 section."

5

6 NEW SECTION. **Section 12. Effective date.** [This act] is effective on passage and approval.

7

8 NEW SECTION. **Section 13. Termination.** [Section 6] terminates July 1, 1997.

9

-END-

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2 INTRODUCED BY SQUIRES, HARPER, EWER, GRADY, RYAN, LYNCH, TUSS, COCCHIARELLA,
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12 EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE."

THERE ARE NO CHANGES IN THIS BILL AND IT WILL
NOT BE REPRINTED. PLEASE REFER TO SECOND
READING COPY (YELLOW) FOR COMPLETE TEXT.

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19 system.

20 (2) "Employee" means a person employed by the state who has achieved permanent status, as
21 defined in 2-18-101, or ~~employed by the senate or house of representatives during the 53rd legislature for~~
22 ~~a period of at least 8 continuous weeks~~ officers and employees of the legislative branch and teachers under
23 the authority of the department of corrections and human services or department of family services who
24 have been employed for at least 6 continuous months AND WHO HAVE WAIVED BENEFITS UNDER THE
25 PROVISIONS OF [HOUSE BILL NO. 106].

26 (3) "Privatization" means contracting with the private sector to provide a service normally or
27 traditionally provided directly by an employee of an agency. ~~(Terminates July 1, 1995 see. 11, Ch. 477,~~
28 ~~L. 1993.)"~~

29
30 Section 2. Section 2-18-1203, MCA, is amended to read:

1 **"2-18-1203. ~~(Temporary)~~ General protection -- job register -- seniority preference.** (1) An
 2 employee whose position is eliminated as a result of privatization, reorganization of an agency, ~~or~~ closure
 3 of or a reduction in force at an agency, or other actions by the legislature is entitled to:

4 (a) notice of announcements for jobs for which the employee may qualify that arise within the
 5 terminating agency or within state government. Notices must be provided by the state for a period of 1
 6 year from the date of separation.

7 (b) access to any job retraining and career development programs provided by the state through
 8 the Job Training Partnership Act service delivery areas dislocated worker programs, provided that the
 9 employee begins participating in a program within 1 year after the elimination of the employee's position;
 10 and

11 (c) inclusion in a special job register from which all agencies, except an agency attempting to hire
 12 for a position exempt under 2-18-103 or 2-18-104, shall attempt to hire employees prior to seeking
 13 applications from the general public. The employee must be listed in the job register according to the
 14 occupational categories in which the employee is qualified for employment.

15 (2) (a) An agency attempting to hire from the job register shall consider the employee's
 16 qualifications and length of state service. If two or more employees listed in the job register are equally
 17 qualified for a vacant position, the agency shall select the employee with the longest continuous state
 18 service.

19 (b) If there is not an employee listed on the job register who meets the job qualifications for the
 20 vacant position, the agency may hire a qualified external applicant or establish a training assignment,
 21 according to state policy. ~~(Terminated July 1, 1995 see. 11, Ch. 477, L. 1993.)"~~

22

23 **Section 3. Section 2-18-1204, MCA, is amended to read:**

24 **"2-18-1204. ~~(Temporary)~~ Salary and benefits protection -- employee transfer.** (1) An employee
 25 whose position is eliminated as a result of privatization, reorganization of an agency, ~~or~~ closure of or a
 26 reduction in force at an agency, or other actions by the legislature and who is subsequently transferred to
 27 a different position in a state agency is entitled to:

28 (a) the same hourly salary as previously received if the new position is at the same grade level OR
 29 HIGHER as the one previously held;

30 (b) retain all accrued sick leave credits;

1 (c) retain, cash out, or use accrued vacation leave credits to extend the employee's effective layoff
2 date; and

3 (d) relocation expenses as provided in state policy.

4 (2) Relocation expenses must be paid by the hiring agency, and the funds expended by the hiring
5 agency must be reimbursed from the funds appropriated for this purpose, including those funds subject to
6 transfer under the provisions of [section 4 6]. ~~(Terminates July 1, 1995 see. 11, Ch. 477, L. 1993.)~~"
7

8 **Section 4.** Section 2-18-1205, MCA, is amended to read:

9 **"2-18-1205. ~~Temporary~~ Continuation of health insurance and employer contributions.** (1) During
10 the period of unemployment as a result of privatization, reorganization of an agency, ~~or~~ closure of or a
11 reduction in force at an agency, or other actions by the legislature, the employee is entitled to remain
12 covered by the state's group health insurance plan and to the continuation of the employer's contribution
13 to the employee's group health insurance for 6 months from the effective date of layoff or until the
14 employee becomes employed, whichever occurs first. ~~This section does not apply to employees of the~~
15 ~~senate or house of representatives.~~

16 (2) For the purposes of this section, the term "agency" includes the Montana university system.
17 ~~(Terminates July 1, 1995 see. 11, Ch. 477, L. 1993.)~~"
18

19 **NEW SECTION. Section 5. Additional service for member involuntarily terminated from**
20 **membership service.** (1) An employee of the state or university system is entitled to the involuntary
21 termination provision provided in subsection (2) if:

22 (a) the employee is a member of the public employees', game wardens', sheriffs', or highway patrol
23 officers' retirement system;

24 (b) ~~the~~ the employee's active service is involuntarily terminated because of ELIMINATION OF THE
25 EMPLOYEE'S POSITION AS A RESULT OF PRIVATIZATION, REORGANIZATION OF AN AGENCY, CLOSURE
26 OF OR a reduction in force AT AN AGENCY, OR OTHER ACTIONS BY THE LEGISLATURE on or after
27 January 1, 1995, but before July 1, 1997; ~~or~~

28 ~~(iii) the employee is a member of an agency or program that is abolished or merged into another~~
29 ~~agency or program as identified by legislative action and volunteers to retire or resign to assist the state~~
30 ~~in reducing the number of employees or in restructuring state agencies;~~

1 (c) the employee is eligible for a normal service retirement or early retirement under the applicable
2 provisions of the retirement system to which the member belongs; and

3 (d) the employee waives termination benefits for which the employee would otherwise be eligible
4 under the State Employee Protection Act.

5 (2) The employer of an eligible member under subsection (1) shall pay the total actuarial cost, as
6 determined by the board and based upon the most recent actuarial valuation of the system, of purchasing
7 up to 3 years of additional service that the member was qualified to purchase under 19-3-513, [sections
8 2 and 3 of House Bill No. 324], or 19-7-804. A member is entitled to a refund for that portion of previously
9 purchased additional service that would otherwise cause the member to be unqualified to receive all or part
10 of the additional service provided in this section.

11 (3) A retired member who was involuntarily terminated because of a reduction in force on or after
12 January 1, 1995, but before [the effective date of this act] and whose effective date of retirement was
13 before [the effective date of this act] is eligible for the involuntary termination benefits described in this
14 section if a properly completed application for those benefits is received by the division on or before June
15 1, 1995.

16 (4) The board may allow an employer to pay the contributions required under subsection (2) in
17 installments for up to 10 years and may charge interest at a rate set by the board pursuant to 19-2-403.

18 (5) A member who has received additional service under this section and who returns to
19 employment for the same jurisdiction for 600 or more hours in a calendar year forfeits the additional
20 service. The employer's contribution to purchase that member's additional service, minus any retirement
21 benefits already paid, must be refunded to the employer. As used in this subsection, the same jurisdiction
22 means all agencies of the state, including the university system.

23
24 **NEW SECTION. Section 6. Authority to transfer funding.** When authorized by the approving
25 authority, an agency may transfer appropriations from fiscal year 1995 to fiscal year 1996 and
26 appropriations from fiscal year 1996 to fiscal year 1997 to fund the provisions of [this act].

27
28 **NEW SECTION. Section 7. Appropriation.** There is appropriated \$39,408 from the general fund
29 to the department of labor and industry for each of the fiscal years 1996 and 1997 to fund the job registry
30 established in 2-18-1203.

1 **NEW SECTION.** Section 8. **Repealer.** Section 11, Chapter 477, Laws of 1993, is repealed.

2
3 **NEW SECTION.** Section 9. **Codification instruction.** [Section 5] is intended to be codified as an
4 integral part of Title 19, chapter 2, part 7, and the provisions of Title 19, chapter 2, part 7, apply to
5 [section 5].

6
7 **NEW SECTION.** Section 10. **Retroactive applicability.** [Section 5] applies retroactively, within the
8 meaning of 1-2-109, to an employee involuntarily terminated from the state or university system because
9 of ELIMINATION OF THE EMPLOYEE'S POSITION AS A RESULT OF PRIVATIZATION, REORGANIZATION
10 OF AN AGENCY, CLOSURE OF OR a reduction in force AT AN AGENCY, OR OTHER ACTIONS BY THE
11 LEGISLATURE on or after January 1, 1995.

12
13 **NEW SECTION.** Section 11. **Coordination instruction.** If House Bill No. 324 is not passed and
14 approved, then [section 5(1) and (2) of this act] must read as follows:

15 "(1) An employee of the state or university system is entitled to the involuntary termination
16 provision provided in subsection (2) if:

17 (a) the employee is a member of the public employees' or sheriffs' retirement system;

18 (b) ~~(b)~~ the employee's active service is involuntarily terminated because of ELIMINATION OF THE
19 EMPLOYEE'S POSITION AS A RESULT OF PRIVATIZATION, REORGANIZATION OF AN AGENCY, CLOSURE
20 OF OR a reduction in force AT AN AGENCY, OR OTHER ACTIONS BY THE LEGISLATURE on or after
21 January 1, 1995, but before July 1, 1997; ~~or~~

22 ~~(iii) the employee is a member of an agency or program that is abolished or merged into another~~
23 ~~agency or program as identified by legislative action and volunteers to retire or resign to assist the state~~
24 ~~in reducing the number of employees or in restructuring state agencies;~~

25 (c) the employee is eligible for a normal service retirement or early retirement under the applicable
26 provisions of the retirement system to which the member belongs; and

27 (d) the employee waives termination benefits for which the employee would otherwise be eligible
28 under the State Employee Protection Act.

29 (2) The employer of an eligible member under subsection (1) shall pay the total actuarial cost, as
30 determined by the board and based upon the most recent actuarial valuation of the system, of purchasing

1 up to 3 years of additional service that the member was qualified to purchase under 19-3-513 or 19-7-804.
2 A member is entitled to a refund for that portion of previously purchased additional service that would
3 otherwise cause the member to be unqualified to receive all or part of the additional service provided in this
4 section."

5

6 NEW SECTION. **Section 12. Effective date.** [This act] is effective on passage and approval.

7

8 NEW SECTION. **Section 13. Termination.** [Section 6] terminates July 1, 1997.

9

-END-

OFFICE OF THE GOVERNOR

STATE OF MONTANA



MARC RACICOT
GOVERNOR

STATE CAPITOL
HELENA, MONTANA 59620-0801

April 13, 1995

The Honorable John Mercer
Speaker of the House
State Capitol
Helena MT 59620

The Honorable Bob Brown
President of the Senate
State Capitol
Helena MT 59620

Dear Speaker Mercer and President Brown:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return House Bill 490, "AN ACT EXTENDING THE STATE EMPLOYEE PROTECTION ACT; CLARIFYING THE DEFINITION OF EMPLOYEE; AUTHORIZING ADDITIONAL SERVICE AS AN ALTERNATIVE TO BENEFITS UNDER THE STATE EMPLOYEE PROTECTION ACT FOR A MEMBER WHO IS INVOLUNTARILY TERMINATED FROM MEMBERSHIP BY A REDUCTION IN FORCE, ABOLISHMENT OR MERGER OF AN AGENCY, OR RESTRUCTURING OF STATE AGENCIES BY LEGISLATIVE ACTION; AMENDING SECTIONS 2-18-1202, 2-18-1203, 2-18-1204, AND 2-18-1205, MCA; REPEALING SECTION 11, CHAPTER 477, LAWS OF 1993; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE."

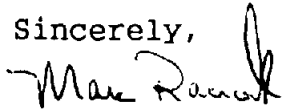
Amendments to House Bill 490 are required to reduce the cost of purchasing additional service on behalf of retirement-eligible employees who are involuntarily terminated due to privatization, reorganization or a reduction in force. Since House Bill 268 has not been enacted, it is no longer constitutionally necessary for employers to pay the full actuarial cost for purchasing this service.

Since House Bill 324 has already been signed into law, the coordination instruction in section 11 is no longer necessary and it is most efficient to strike this section rather than to amend it.

It is my understanding that Representative Squires, the sponsor of

House Bill 490, is in agreement with this amendment.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marc Racicot". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

MARC RACICOT
Governor

GOVERNOR'S AMENDMENTS TO
HOUSE BILL NO. 490
(REFERENCE COPY)
April 13, 1995

I. Page 4, lines 5 and 6.

Following: "total"

Strike: "actuarial"

Following: "cost"

Strike: ", as" on line 5 through "system," on line 6

II. Page 5, line 13.

Strike: "NEW SECTION. Section 11." in its entirety

Renumber subsequent sections

HB 490

1 HOUSE BILL NO. 490

2 INTRODUCED BY SQUIRES, HARPER, EWER, GRADY, RYAN, LYNCH, TUSS, COCCHIARELLA,
3 ELLINGSON, SHEA, AHNER, HIBBARD, J. JOHNSON, MENAHAN, BECK, BARTLETT, WATERMAN
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE STATE EMPLOYEE PROTECTION ACT;
6 CLARIFYING THE DEFINITION OF EMPLOYEE; AUTHORIZING ADDITIONAL SERVICE AS AN ALTERNATIVE
7 TO BENEFITS UNDER THE STATE EMPLOYEE PROTECTION ACT FOR A MEMBER WHO IS
8 INVOLUNTARILY TERMINATED FROM MEMBERSHIP BY A REDUCTION IN FORCE, ABOLISHMENT OR
9 MERGER OF AN AGENCY, OR RESTRUCTURING OF STATE AGENCIES BY LEGISLATIVE ACTION;
10 AMENDING SECTIONS 2-18-1202, 2-18-1203, 2-18-1204, AND 2-18-1205, MCA; REPEALING SECTION
11 11, CHAPTER 477, LAWS OF 1993; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE
12 EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE."
13

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

16 **Section 1.** Section 2-18-1202, MCA, is amended to read:

17 **"2-18-1202. ~~Temporary~~ Definitions.** As used in this part, the following definitions apply:

18 (1) "Agency" has the meaning provided in 2-18-101 but does not include the Montana university
19 system.

20 (2) "Employee" means a person employed by the state who has achieved permanent status, as
21 defined in 2-18-101, or ~~employed by the senate or house of representatives during the 53rd legislature for~~
22 ~~a period of at least 8 continuous weeks~~ officers and employees of the legislative branch and teachers under
23 the authority of the department of corrections and human services or department of family services who
24 have been employed for at least 6 continuous months AND WHO HAVE WAIVED BENEFITS UNDER THE
25 PROVISIONS OF [HOUSE BILL NO. 106].

26 (3) "Privatization" means contracting with the private sector to provide a service normally or
27 traditionally provided directly by an employee of an agency. ~~(Terminates July 1, 1995 see. 11, Ch. 477,~~
28 ~~L. 1993.)"~~

29
30 **Section 2.** Section 2-18-1203, MCA, is amended to read:

1 **"2-18-1203. ~~(Temporary)~~ General protection -- job register -- seniority preference.** (1) An
 2 employee whose position is eliminated as a result of privatization, reorganization of an agency, ~~or~~ closure
 3 of or a reduction in force at an agency, or other actions by the legislature is entitled to:

4 (a) notice of announcements for jobs for which the employee may qualify that arise within the
 5 terminating agency or within state government. Notices must be provided by the state for a period of 1
 6 year from the date of separation.

7 (b) access to any job retraining and career development programs provided by the state through
 8 the Job Training Partnership Act service delivery areas dislocated worker programs, provided that the
 9 employee begins participating in a program within 1 year after the elimination of the employee's position;
 10 and

11 (c) inclusion in a special job register from which all agencies, except an agency attempting to hire
 12 for a position exempt under 2-18-103 or 2-18-104, shall attempt to hire employees prior to seeking
 13 applications from the general public. The employee must be listed in the job register according to the
 14 occupational categories in which the employee is qualified for employment.

15 (2) (a) An agency attempting to hire from the job register shall consider the employee's
 16 qualifications and length of state service. If two or more employees listed in the job register are equally
 17 qualified for a vacant position, the agency shall select the employee with the longest continuous state
 18 service.

19 (b) If there is not an employee listed on the job register who meets the job qualifications for the
 20 vacant position, the agency may hire a qualified external applicant or establish a training assignment,
 21 according to state policy. ~~(Terminates July 1, 1995 see. 11, Ch. 477, L. 1993.)"~~

22
 23 **Section 3.** Section 2-18-1204, MCA, is amended to read:

24 **"2-18-1204. ~~(Temporary)~~ Salary and benefits protection -- employee transfer.** (1) An employee
 25 whose position is eliminated as a result of privatization, reorganization of an agency, ~~or~~ closure of or a
 26 reduction in force at an agency, or other actions by the legislature and who is subsequently transferred to
 27 a different position in a state agency is entitled to:

28 (a) the same hourly salary as previously received if the new position is at the same grade level OR
 29 HIGHER as the one previously held;

30 (b) retain all accrued sick leave credits;

1 (c) retain, cash out, or use accrued vacation leave credits to extend the employee's effective layoff
2 date; and

3 (d) relocation expenses as provided in state policy.

4 (2) Relocation expenses must be paid by the hiring agency, and the funds expended by the hiring
5 agency must be reimbursed from the funds appropriated for this purpose, including those funds subject to
6 transfer under the provisions of [section 4 6]. ~~{Terminates July 1, 1995 see. 11, Ch. 477, L. 1993.}~~"

7

8 **Section 4.** Section 2-18-1205, MCA, is amended to read:

9 **"2-18-1205. ~~{Temporary}~~ Continuation of health insurance and employer contributions.** (1) During
10 the period of unemployment as a result of privatization, reorganization of an agency, ~~or~~ closure of or a
11 reduction in force at an agency, or other actions by the legislature, the employee is entitled to remain
12 covered by the state's group health insurance plan and to the continuation of the employer's contribution
13 to the employee's group health insurance for 6 months from the effective date of layoff or until the
14 employee becomes employed, whichever occurs first. ~~This section does not apply to employees of the~~
15 ~~senate or house of representatives.~~

16 (2) For the purposes of this section, the term "agency" includes the Montana university system.
17 ~~{Terminates July 1, 1995 see. 11, Ch. 477, L. 1993.}~~"

18

19 **NEW SECTION. Section 5. Additional service for member involuntarily terminated from**
20 **membership service.** (1) An employee of the state or university system is entitled to the involuntary
21 termination provision provided in subsection (2) if:

22 (a) the employee is a member of the public employees', game wardens', sheriffs', or highway patrol
23 officers' retirement system;

24 (b) ~~{}~~ the employee's active service is involuntarily terminated because of ELIMINATION OF THE
25 EMPLOYEE'S POSITION AS A RESULT OF PRIVATIZATION, REORGANIZATION OF AN AGENCY, CLOSURE
26 OF OR a reduction in force AT AN AGENCY, OR OTHER ACTIONS BY THE LEGISLATURE on or after
27 January 1, 1995, but before July 1, 1997; ~~or~~

28 ~~{}~~ the employee is a member of an agency or program that is abolished or merged into another
29 agency or program as identified by legislative action and volunteers to retire or resign to assist the state
30 in reducing the number of employees or in restructuring state agencies;

1 (c) the employee is eligible for a normal service retirement or early retirement under the applicable
2 provisions of the retirement system to which the member belongs; and

3 (d) the employee waives termination benefits for which the employee would otherwise be eligible
4 under the State Employee Protection Act.

5 (2) The employer of an eligible member under subsection (1) shall pay the total ~~actuarial cost, as~~
6 ~~determined by the board and based upon the most recent actuarial valuation of the system,~~ of purchasing
7 up to 3 years of additional service that the member was qualified to purchase under 19-3-513, [sections
8 2 and 3 of House Bill No. 324], or 19-7-804. A member is entitled to a refund for that portion of previously
9 purchased additional service that would otherwise cause the member to be unqualified to receive all or part
10 of the additional service provided in this section.

11 (3) A retired member who was involuntarily terminated because of a reduction in force on or after
12 January 1, 1995, but before [the effective date of this act] and whose effective date of retirement was
13 before [the effective date of this act] is eligible for the involuntary termination benefits described in this
14 section if a properly completed application for those benefits is received by the division on or before June
15 1, 1995.

16 (4) The board may allow an employer to pay the contributions required under subsection (2) in
17 installments for up to 10 years and may charge interest at a rate set by the board pursuant to 19-2-403.

18 (5) A member who has received additional service under this section and who returns to
19 employment for the same jurisdiction for 600 or more hours in a calendar year forfeits the additional
20 service. The employer's contribution to purchase that member's additional service, minus any retirement
21 benefits already paid, must be refunded to the employer. As used in this subsection, the same jurisdiction
22 means all agencies of the state, including the university system.

23

24 **NEW SECTION. Section 6. Authority to transfer funding.** When authorized by the approving
25 authority, an agency may transfer appropriations from fiscal year 1995 to fiscal year 1996 and
26 appropriations from fiscal year 1996 to fiscal year 1997 to fund the provisions of [this act].

27

28 **NEW SECTION. Section 7. Appropriation.** There is appropriated \$39,408 from the general fund
29 to the department of labor and industry for each of the fiscal years 1996 and 1997 to fund the job registry
30 established in 2-18-1203.

1 **NEW SECTION. Section 8. Repealer.** Section 11, Chapter 477, Laws of 1993, is repealed.

2
3 **NEW SECTION. Section 9. Codification instruction.** [Section 5] is intended to be codified as an
4 integral part of Title 19, chapter 2, part 7, and the provisions of Title 19, chapter 2, part 7, apply to
5 [section 5].

6
7 **NEW SECTION. Section 10. Retroactive applicability.** [Section 5] applies retroactively, within the
8 meaning of 1-2-109, to an employee involuntarily terminated from the state or university system because
9 of ELIMINATION OF THE EMPLOYEE'S POSITION AS A RESULT OF PRIVATIZATION, REORGANIZATION
10 OF AN AGENCY, CLOSURE OF OR a reduction in force AT AN AGENCY, OR OTHER ACTIONS BY THE
11 LEGISLATURE on or after January 1, 1995.

12
13 ~~**NEW SECTION. Section 11. Coordination instruction.** If House Bill No. 324 is not passed and
14 approved, then [section 5(1) and (2) of this act] must read as follows:~~

15 ~~"(1) An employee of the state or university system is entitled to the involuntary termination
16 provision provided in subsection (2) if:~~

17 ~~(a) the employee is a member of the public employees' or sheriffs' retirement system;~~

18 ~~(b) (i) the employee's active service is involuntarily terminated because of ELIMINATION OF THE
19 EMPLOYEE'S POSITION AS A RESULT OF PRIVATIZATION, REORGANIZATION OF AN AGENCY, CLOSURE
20 OF OR a reduction in force AT AN AGENCY, OR OTHER ACTIONS BY THE LEGISLATURE on or after
21 January 1, 1995, but before July 1, 1997; or~~

22 ~~(ii) the employee is a member of an agency or program that is abolished or merged into another
23 agency or program as identified by legislative action and volunteers to retire or resign to assist the state
24 in reducing the number of employees or in restructuring state agencies;~~

25 ~~(c) the employee is eligible for a normal service retirement or early retirement under the applicable
26 provisions of the retirement system to which the member belongs; and~~

27 ~~(d) the employee waives termination benefits for which the employee would otherwise be eligible
28 under the State Employee Protection Act.~~

29 ~~(2) The employer of an eligible member under subsection (1) shall pay the total actuarial cost, as
30 determined by the board and based upon the most recent actuarial valuation of the system, of purchasing~~

1 ~~up to 3 years of additional service that the member was qualified to purchase under 19-3-513 or 19-7-804.~~
2 ~~A member is entitled to a refund for that portion of previously purchased additional service that would~~
3 ~~otherwise cause the member to be unqualified to receive all or part of the additional service provided in this~~
4 ~~section."~~

5

6 NEW SECTION. **Section 11. Effective date.** [This act] is effective on passage and approval.

7

8 NEW SECTION. **Section 12. Termination.** [Section 6] terminates July 1, 1997.

9

-END-