

1 HOUSE BILL NO. 142

2 INTRODUCED BY KASTEN

3 BY REQUEST OF THE BOARD OF REGENTS
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE MONTANA UNIVERSITY SYSTEM OPTIONAL
6 RETIREMENT PROGRAM TO UNIVERSITY SYSTEM EMPLOYEES OTHERWISE ELIGIBLE FOR MEMBERSHIP
7 UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; ASSIGNING TO THE BOARD OF REGENTS THE
8 DUTY TO CONSIDER ALLOWING THE TRANSFER OF FUNDS FOR TERMINATING PROGRAM
9 PARTICIPANTS; ALLOWING CURRENT EMPLOYEES COVERED BY THE PUBLIC EMPLOYEES' RETIREMENT
10 SYSTEM AN OPTION; PROVIDING THAT NEWLY HIRED EMPLOYEES SHALL JOIN THE OPTIONAL
11 RETIREMENT PROGRAM; ESTABLISHING CONTRIBUTION RATES; AMENDING SECTIONS 19-21-101,
12 19-21-102, 19-21-103, 19-21-201, 19-21-202, AND 19-21-203, MCA; AND PROVIDING AN EFFECTIVE
13 DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16

17 **Section 1.** Section 19-21-101, MCA, is amended to read:

18 **"19-21-101. Authority to establish optional retirement program.** (1) The board of regents may
19 establish an optional retirement program, as provided in this chapter, for:

20 (a) the administrative officers and members of the instructional and scientific staff of the Montana
21 university system; and

22 (b) Montana university system employees otherwise eligible to be covered under the public
23 employees' retirement system.

24 (2) The program may be an independent plan or part of a larger plan with respect to some or all
25 of the benefits provided.

26 (3) The benefits under the program must be provided through individual annuity contracts, either
27 fixed or variable, or a combination ~~thereof~~ of contracts, issued to and owned by the participants in the
28 program."
29

30 **Section 2.** Section 19-21-102, MCA, is amended to read:

1 ~~"19-21-102. Definition of teachers' retirement system~~ **Definitions.** In this chapter;

2 ~~(1) "teachers' retirement system" means the teachers' retirement system provided for in Title 19,~~
3 ~~chapter 20; and~~

4 ~~(2) "public employees' retirement system" means the public employees' retirement system provided~~
5 ~~for in Title 19, chapter 3."~~

6
7 **Section 3.** Section 19-21-103, MCA, is amended to read:

8 **"19-21-103. Duties of board of regents.** The board of regents shall:

9 (1) provide for the administration of the program;

10 (2) designate the company or companies from which the contracts are to be purchased and
11 approve the form and content of the contracts, taking into consideration the:

12 (a) nature and extent of the rights and benefits to be provided by the contracts for participants and
13 their beneficiaries;

14 (b) relationship of these rights and benefits to the amount of contributions to be made;

15 (c) suitability of these rights and benefits to the needs of the participants and the interests of the
16 Montana university system in the recruitment and retention of administrative officers, ~~and~~ members of the
17 instructional and scientific staff, and other employees; ~~and~~

18 (d) ability of the designated company or companies to provide these rights and benefits; and

19 (e) appropriateness of permitting terminated participants to transfer the funds in their optional
20 retirement program annuity contracts to another qualified plan."

21
22 **Section 4.** Section 19-21-201, MCA, is amended to read:

23 **"19-21-201. Participation in program.** (1) Except as provided in subsection (2);

24 (a) academic and professional administrative personnel with individual contracts under the authority
25 of the board of regents are eligible for and may elect to participate in the optional retirement program
26 instead of the teachers' retirement system. This election must be exercised:

27 ~~(a)(i)~~ before January 1, 1988, for an eligible person hired before July 1, 1987;

28 ~~(b)(ii)~~ within 90 days after entry into service or before January 1, 1988, whichever is later, for a
29 person hired in an eligible position on or after July 1, 1987; and

30 ~~(c)(iii)~~ within 30 days after receiving written notice of eligibility or before January 1, 1988,

1 whichever is later, for an employee who becomes eligible to participate in the optional retirement program
2 by reason of appointment, promotion, transfer, or reclassification to an eligible position.

3 (b) employees of the Montana university system who are members of the public employees'
4 retirement system may elect to participate in the optional retirement program. This election must be
5 exercised:

6 (i) before January 1, 1998, for an eligible person hired before July 1, 1997;

7 (ii) within 90 days after entry into service or before January 1, 1998, whichever is later, for a
8 person hired in an eligible position on or after July 1, 1997; and

9 (iii) within 30 days after receiving written notice of eligibility or before January 1, 1998, whichever
10 is later, for an employee who becomes eligible to participate in the optional retirement program by reason
11 of appointment, promotion, transfer, or reclassification to an eligible position.

12 (2) (a) An eligible person hired on or after July 1, 1993, or January 1, 1998, in the case of a
13 person who would otherwise be eligible for membership in the public employees' retirement system, shall
14 become a member of the optional retirement plan unless the person is, on the date hired, an active,
15 inactive, or retired member of a public retirement system created in Title 19, chapter 3 or 20.

16 (b) A person hired who is a member of a public retirement system created in Title 19, chapter 3
17 or 20, shall elect to:

18 (i) remain with the retirement system of which the person is a member on the date hired; or

19 (ii) become a member of the optional retirement plan.

20 (c) A person eligible to make an election under this subsection (2) shall exercise the election within
21 30 days of being hired.

22 (3) The election must be exercised by filing a written notice with the teachers' retirement system
23 or the public employees' retirement system, whichever is applicable, and the disbursing officer of the
24 employer. ~~The~~ For persons eligible under subsection (1)(a), the election is effective as of the date that the
25 notice is filed or January 1, 1988, whichever is later. For persons eligible under subsection (1)(b), the
26 election is effective as of the date that the notice is filed or January 1, 1998, whichever is later.

27 (4) If an eligible officer, employee, or staff member fails to exercise the election, as provided by
28 this section, that person ~~must~~ shall remain or become a member of the teachers' retirement system or the
29 public employees' retirement system, whichever is applicable.

30 (5) An election under this section is not effective unless the notice filed with the disbursing officer

1 of the employer is accompanied by an appropriate application, if one is required, for the issuance of a
 2 contract or contracts under the program."

3
 4 **Section 5.** Section 19-21-202, MCA, is amended to read:

5 "**19-21-202. Effect on rights under teachers' retirement system and public employees' retirement**
 6 **system.** (1) An election under 19-21-201 to participate in the optional retirement program is a waiver of
 7 all rights and benefits under the teachers' or public employees' retirement system except as provided in this
 8 section.

9 (2) A member of the teachers' or public employees' retirement system who elects to participate
 10 in the optional retirement program is considered, for the purpose of determining eligibility for rights and
 11 benefits under that system, to be no longer employed in a capacity that allows active membership in that
 12 system as of the effective date of the election. ~~Thereafter~~ After the date of election, the member is
 13 considered an inactive member of the retirement system if qualified under 19-3-401 or 19-20-303, with
 14 the rights and privileges provided under 19-3-318 or 19-20-603(1), as applicable. A member who elects
 15 to participate in the optional retirement program who does not qualify as an inactive member under
 16 19-3-401 or 19-20-303 is considered a terminated member of the retirement system under 19-2-601 or
 17 19-20-304(4), as applicable.

18 (3) A person who elects to participate in the optional retirement program is ineligible to be an active
 19 member of the teachers' or public employees' retirement system while continuously employed in a position
 20 eligible to participate in the optional retirement program."

21
 22 **Section 6.** Section 19-21-203, MCA, is amended to read:

23 "**19-21-203. Contributions.** (1) (a) Each optional retirement program participant shall contribute
 24 an amount equal to the member's contribution required under 19-20-602 or, in the case of participants
 25 otherwise eligible for membership in the public employees' retirement system, the contribution required
 26 under 19-3-315.

27 (b) The board of regents shall contribute an amount that, when added to the participant's
 28 contribution, is equal to 12% of the participant's earned compensation.

29 (2) (a) ~~On or after July 1, 1997, the~~ The board of regents may:

30 (i) reduce the participant's contribution rate established in subsection (1) to an amount not less

1 than 6% of the participant's earned compensation; and

2 (ii) increase the employer's contribution rate to an amount not greater than 6% of the participant's
3 earned compensation.

4 (b) The sum of the participant's and employer's contributions made under subsection (2)(a) must
5 remain at 12% of the participant's earned compensation.

6 (3) The board of regents shall determine whether the participant's contribution is to be made by
7 salary reduction under section 403(b) of the Internal Revenue Code of 1954 or by employer pick-up under
8 section 414(h)(2) of that code.

9 (4) The disbursing officer of the employer or other official designated by the board of regents shall
10 pay both the participant's contribution and the appropriate portion of the regents' contribution to the
11 designated company or companies for the benefit of the participant.

12 (5) (a) The board of regents shall contribute the amounts specified in ~~subsection~~ subsections (5)(b)
13 and (5)(c) to the teachers' retirement system or to the public employees' retirement system, whichever is
14 applicable, to discharge the obligation incurred by the employees of the Montana university system who
15 elect or who are required to become members of the optional retirement plan. The contributions paid by
16 the board are for the past service liability incurred by active, inactive, and retired members of the teachers'
17 retirement system or the public employees' retirement system, whichever is applicable, and must be
18 consistent with the requirements of 19-21-111.

19 (b) (i) Beginning July 1, 1993, through June 30, 1997, the contributions to be made by the board
20 of regents to the teachers' retirement system must equal 2.503% of earned compensation attributable to
21 optional retirement participants eligible under 19-21-201(1)(a).

22 (ii) Beginning July 1, 1997, the contribution rate to the teachers' retirement system must be
23 adjusted, pursuant to 19-20-201, based on the actual experience of the members of the Montana university
24 system who are members of the teachers' retirement system, and must be set at a rate sufficient to
25 amortize the past service liability of the university system members by July 1, 2033.

26 (c) (i) Beginning January 1, 1998, through June 30, 2003, the contributions to be made by the
27 board of regents to the public employees' retirement system must equal 1.40% of earned compensation
28 attributable to optional retirement program participants eligible pursuant to 19-21-201(1)(b).

29 (ii) Beginning July 1, 2003, the contribution rate to the public employees' retirement system must
30 be adjusted, pursuant to 19-2-405 and this section, based on the actual experience of university system

1 employees who are members of the public employees' retirement system, and must be sufficient to
2 amortize the past service liability of the university system members by July 1, 2043."

3

4 NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 1997.

5

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0142, as revised

DESCRIPTION OF PROPOSED LEGISLATION:

A bill providing an election for university employees who are Public Employee Retirement System (PERS) members to either remain members of PERS or become members of the Montana University System's optional retirement plan (ORP).

ASSUMPTIONS:

Supporting P.E.R.S.:

1. About 15% of university employees who are currently PERS members will elect to transfer to the ORP. Those who elect to transfer will be those with both less than 5 years of service and less than 45 years of age.
2. The estimated cost to amortize the unfunded liabilities to PERS associated with this proposal is 3% of the salaries of university system employees who become members of the ORP. Because the university system will pay an amount equal to 1.4% of the salaries of ORP members to PERS, the proposal is not actuarially funded and the amortization period of the system will be increased.
3. The fiscal year 1996 University System PERS payroll totaled \$52.9 million and is expected to increase by 3.5% each year in the future. The rate of staff turnover for PERS-covered university employees is 5% per year.

FISCAL IMPACT:

The fiscal impact of this bill essentially boils down to: is the 1.4% contribution allowed by the bill sufficient to provide for the PERS unfunded liability of the switching employees. The University system feels that the 1.4% may be sufficient, but if it is not, the bill provides a mechanism at the beginning of FY04 to adjust the percentage, based upon the previous years actual, so that any loss (or gain) can be corrected. The University system feels that the fiscal impact of HB0142 is zero as the bill is presented because the future cannot be predicted with the accuracy demanded.

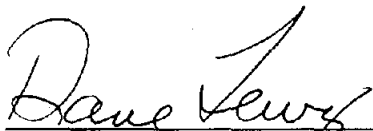
PERS, using current actuarial assumptions and the assumptions listed above, feels that the contributed amount should be 3%, not 1.4%. This difference will cause the unfunded liability of the PERS Pension Trust Fund to grow at the rate of approximately \$60,000 per year if not corrected.

A second issue involves training costs. PERS estimates their cost of providing education to the affected university employees to help them make correct decisions about their election of retirement plans, will not exceed \$100,000 in FY98.

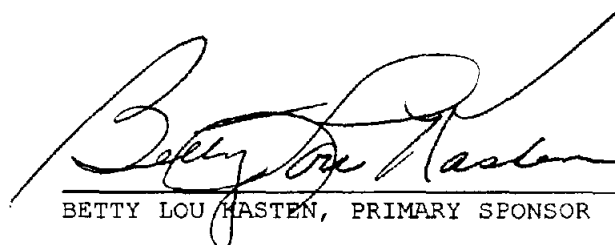
The University system feels that most training needs can be impartially handled by the selected contractor for the new ORP.

TECHNICAL NOTES:

The staff of the PERS believe that HB 42, as drafted, may be unconstitutional because of the unfunded liability issue. OBPP, however, believes that the issue is unclear and that a conclusion cannot be drawn.

 1-15-97

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1-16-97

BETTY LOU HASTEN, PRIMARY SPONSOR DATE

Fiscal Note for HB0142, as revised

HB 142

HOUSE BILL NO. 142

INTRODUCED BY KASTEN, CHRISTAENS, HERTEL, REAM

BY REQUEST OF THE BOARD OF REGENTS

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE MONTANA UNIVERSITY SYSTEM OPTIONAL RETIREMENT PROGRAM TO UNIVERSITY SYSTEM EMPLOYEES OTHERWISE ELIGIBLE FOR MEMBERSHIP UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; ASSIGNING TO THE BOARD OF REGENTS THE DUTY TO CONSIDER ALLOWING THE TRANSFER OF FUNDS FOR TERMINATING PROGRAM PARTICIPANTS; ALLOWING CURRENT EMPLOYEES COVERED BY THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AN OPTION; PROVIDING THAT NEWLY HIRED EMPLOYEES SHALL JOIN THE OPTIONAL RETIREMENT PROGRAM; ESTABLISHING CONTRIBUTION RATES; AMENDING SECTIONS 19-21-101, 19-21-102, 19-21-103, 19-21-201, 19-21-202, AND 19-21-203, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 19-21-101, MCA, is amended to read:

"**19-21-101. Authority to establish optional retirement program.** (1) The board of regents may establish an optional retirement program, as provided in this chapter, for:

(a) the administrative officers and members of the instructional and scientific staff of the Montana university system; and

(b) Montana university system employees otherwise eligible to be covered under the public employees' retirement system.

(2) The program may be an independent plan or part of a larger plan with respect to some or all of the benefits provided.

(3) The benefits under the program must be provided through individual annuity contracts, either fixed or variable, or a combination thereof of contracts, issued to and owned by the participants in the program."

Section 2. Section 19-21-102, MCA, is amended to read:

1 ~~"19-21-102. Definition of teachers' retirement system~~ Definitions. In this chapter:

2 (1) "teachers' retirement system" means the teachers' retirement system provided for in Title 19,
3 chapter 20; and

4 (2) "public employees' retirement system" means the public employees' retirement system provided
5 for in Title 19, chapter 3."

6
7 **Section 3.** Section 19-21-103, MCA, is amended to read:

8 **"19-21-103. Duties of board of regents.** The board of regents shall:

9 (1) provide for the administration of the program;

10 (2) designate the company or companies from which the contracts are to be purchased and
11 approve the form and content of the contracts, taking into consideration the:

12 (a) nature and extent of the rights and benefits to be provided by the contracts for participants and
13 their beneficiaries;

14 (b) relationship of these rights and benefits to the amount of contributions to be made;

15 (c) suitability of these rights and benefits to the needs of the participants and the interests of the
16 Montana university system in the recruitment and retention of administrative officers, ~~and~~ members of the
17 instructional and scientific staff, and other employees; and

18 (d) ability of the designated company or companies to provide these rights and benefits; and

19 (e) appropriateness of permitting terminated participants to transfer the funds in their optional
20 retirement program annuity contracts to another qualified plan."

21
22 **Section 4.** Section 19-21-201, MCA, is amended to read:

23 **"19-21-201. Participation in program.** (1) Except as provided in subsection (2):

24 (a) academic and professional administrative personnel with individual contracts under the authority
25 of the board of regents are eligible for and may elect to participate in the optional retirement program
26 instead of the teachers' retirement system. This election must be exercised:

27 ~~(a)~~ (i) before January 1, 1988, for an eligible person hired before July 1, 1987;

28 ~~(b)~~ (ii) within 90 days after entry into service or before January 1, 1988, whichever is later, for a
29 person hired in an eligible position on or after July 1, 1987; and

30 ~~(c)~~ (iii) within 30 days after receiving written notice of eligibility or before January 1, 1988,

1 whichever is later, for an employee who becomes eligible to participate in the optional retirement program
 2 by reason of appointment, promotion, transfer, or reclassification to an eligible position.

3 (b) employees of the Montana university system who are members of the public employees'
 4 retirement system may elect to participate in the optional retirement program. This election must be
 5 exercised:

6 (i) before January 1, 1998, for an eligible person hired before July 1, 1997;

7 (ii) within 90 days after entry into service or before January 1, 1998, whichever is later, for a
 8 person hired in an eligible position on or after July 1, 1997; and

9 (iii) within 30 days after receiving written notice of eligibility or before January 1, 1998, whichever
 10 is later, for an employee who becomes eligible to participate in the optional retirement program by reason
 11 of appointment, promotion, transfer, or reclassification to an eligible position.

12 (2) (a) An eligible person hired on or after July 1, 1993, or January 1, 1998, in the case of a
 13 person who would otherwise be eligible for membership in the public employees' retirement system, shall
 14 become a member of the optional retirement plan unless the person is, on the date hired, an active,
 15 inactive, or retired member of a public retirement system created in Title 19, chapter 3 or 20.

16 (b) A person hired who is a member of a public retirement system created in Title 19, chapter 3
 17 or 20, shall elect to:

18 (i) remain with the retirement system of which the person is a member on the date hired; or

19 (ii) become a member of the optional retirement plan.

20 (c) A person eligible to make an election under this subsection (2) shall exercise the election within
 21 30 days of being hired.

22 (3) The election must be exercised by filing a written notice with the teachers' retirement system
 23 or the public employees' retirement system, whichever is applicable, and the disbursing officer of the
 24 employer. ~~The~~ For persons eligible under subsection (1)(a), the election is effective as of the date that
 25 notice is filed or January 1, 1988, whichever is later. For persons eligible under subsection (1)(b), the
 26 election is effective as of the date that the notice is filed or January 1, 1998, whichever is later.

27 (4) If an eligible officer, employee, or staff member fails to exercise the election, as provided by
 28 this section, that person ~~must~~ shall remain or become a member of the teachers' retirement system or the
 29 public employees' retirement system, whichever is applicable.

30 (5) An election under this section is not effective unless the notice filed with the disbursing officer

1 of the employer is accompanied by an appropriate application, if one is required, for the issuance of a
2 contract or contracts under the program."
3

4 **Section 5.** Section 19-21-202, MCA, is amended to read:

5 "**19-21-202. Effect on rights under teachers' retirement system and public employees' retirement**
6 **system.** (1) An election under 19-21-201 to participate in the optional retirement program is a waiver of
7 all rights and benefits under the teachers' or public employees' retirement system except as provided in this
8 section.

9 (2) A member of the teachers' or public employees' retirement system who elects to participate
10 in the optional retirement program is considered, for the purpose of determining eligibility for rights and
11 benefits under that system, to be no longer employed in a capacity that allows active membership in that
12 system as of the effective date of the election. ~~Thereafter~~ After the date of election, the member is
13 considered an inactive member of the retirement system if qualified under 19-3-401 or 19-20-303, with
14 the rights and privileges provided under 19-3-318 or 19-20-603(1), as applicable. A member who elects
15 to participate in the optional retirement program who does not qualify as an inactive member under
16 19-3-401 or 19-20-303 is considered a terminated member of the retirement system under 19-2-601 or
17 19-20-304(4), as applicable.

18 (3) A person who elects to participate in the optional retirement program is ineligible to be an active
19 member of the teachers' or public employees' retirement system while continuously employed in a position
20 eligible to participate in the optional retirement program."
21

22 **Section 6.** Section 19-21-203, MCA, is amended to read:

23 "**19-21-203. Contributions.** (1) (a) Each optional retirement program participant shall contribute
24 an amount equal to the member's contribution required under 19-20-602 or, in the case of participants
25 otherwise eligible for membership in the public employees' retirement system, the contribution required
26 under 19-3-315.

27 (b) The board of regents shall contribute an amount that, when added to the participant's
28 contribution, is equal to 12% of the participant's earned compensation.

29 (2) (a) ~~On or after July 1, 1997, the~~ The board of regents may:

30 (i) reduce the participant's contribution rate established in subsection (1) to an amount not less

1 than 6% of the participant's earned compensation; and

2 (ii) increase the employer's contribution rate to an amount not greater than 6% of the participant's
3 earned compensation.

4 (b) The sum of the participant's and employer's contributions made under subsection (2)(a) must
5 remain at 12% of the participant's earned compensation.

6 (3) The board of regents shall determine whether the participant's contribution is to be made by
7 salary reduction under section 403(b) of the Internal Revenue Code of 1954 or by employer pick-up under
8 section 414(h)(2) of that code.

9 (4) The disbursing officer of the employer or other official designated by the board of regents shall
10 pay both the participant's contribution and the appropriate portion of the regents' contribution to the
11 designated company or companies for the benefit of the participant.

12 (5) (a) The board of regents shall contribute the amounts specified in ~~subsection~~ subsections (5)(b)
13 and (5)(c) to the teachers' retirement system or to the public employees' retirement system, whichever is
14 applicable, to discharge the obligation incurred by the employees of the Montana university system who
15 elect or who are required to become members of the optional retirement plan. The contributions paid by
16 the board are for the past service liability incurred by active, inactive, and retired members of the teachers'
17 retirement system or the public employees' retirement system, whichever is applicable, and must be
18 consistent with the requirements of 19-21-111.

19 (b) (i) Beginning July 1, 1993, through June 30, 1997, the contributions to be made by the board
20 of regents to the teachers' retirement system must equal 2.503% of earned compensation attributable to
21 optional retirement participants eligible under 19-21-201(1)(a).

22 (ii) Beginning July 1, 1997, the contribution rate to the teachers' retirement system must be
23 adjusted, pursuant to 19-20-201, based on the actual experience of the members of the Montana university
24 system who are members of the teachers' retirement system, and must be set at a rate sufficient to
25 amortize the past service liability of the university system members by July 1, 2033.

26 (c) (i) Beginning January 1, 1998, through June 30, 2003, the contributions to be made by the
27 board of regents to the public employees' retirement system must equal ~~4.40%~~ 3.1% of earned
28 compensation attributable to optional retirement program participants eligible pursuant to 19-21-201(1)(b).

29 (ii) Beginning July 1, 2003, the contribution rate to the public employees' retirement system must
30 be adjusted, pursuant to 19-2-405 and this section, based on the actual experience of university system

1 employees who are members of the public employees' retirement system, and must be sufficient to
2 amortize the past service liability of the university system members by July 1, ~~2043~~ 2027."

3

4 NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 1997.

5

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0142, second reading

DESCRIPTION OF PROPOSED LEGISLATION:

A bill providing an election for university employees who are Public Employee Retirement System (PERS) members to either remain members of PERS or become members of the Montana University System's optional retirement plan (ORP) and requiring new hires who are not already members of PERS to join the ORP.

ASSUMPTIONS:

1. About 15 percent of university employees who are currently PERS members will elect to transfer to the ORP. It is assumed that those who elect to transfer will be those with both less than 5 years of service and less than 45 years of age.
2. The additional cost to be paid to PERS to amortize the unfunded liabilities associated with this proposal is 3.1 percent of the salaries of university system employees who become members of the ORP.
3. The fiscal year 1996 university system PERS payroll totaled \$52.921 million and is expected to increase by 3.5 percent each year in the future. The rate of staff turnover for PERS-covered university employees is estimated to be 5 percent per year which is the average rate of turnover for all PERS-covered employees.
4. The effective date for contribution rate purposes is January 1, 1998. Therefore, the fiscal impact in fiscal year 1998 is for one-half of the fiscal year.
5. Funding for contributions from the MUS for non-faculty members is estimated to be provided in the ratio of 45 percent current unrestricted funds and 55 percent other funds. Approximately 54.4 percent of the current unrestricted funds are attributable to the general fund.
6. In regard to training and education costs for the new ORP, the PERS estimates that its cost of providing education to the affected university employees to help them make correct decisions about the election of a retirement plan will not exceed \$100,000 in fiscal year 1998. However, the university system believes that most training needs can be impartially handled by the selected contractor for the new ORP and, therefore, no additional expenditures are included in this fiscal note.

FISCAL IMPACT:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Montana University System:		
<u>Expenditures:</u>		
Personal services (retirement contributions)	72,275	199,490
<u>Funding:</u>		
General Fund (01)	17,693	48,835
Other funds	<u>54,582</u>	<u>150,655</u>
Total	72,275	199,490
<u>Net Impact on Fund Balance:</u>		
General Fund (01)	(17,693)	(48,835)

Dave Lewis 3-20-97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Betty Lou Kasten 3-20-97
 BETTY LOU KASTEN, PRIMARY SPONSOR DATE
 Fiscal Note for HB0142, second reading
HB 142 #2

1 HOUSE BILL NO. 142

2 INTRODUCED BY KASTEN, CHRISTAENS, HERTEL, REAM

3 BY REQUEST OF THE BOARD OF REGENTS

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE MONTANA UNIVERSITY SYSTEM OPTIONAL
6 RETIREMENT PROGRAM TO UNIVERSITY SYSTEM EMPLOYEES OTHERWISE ELIGIBLE FOR MEMBERSHIP
7 UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; ASSIGNING TO THE BOARD OF REGENTS THE
8 DUTY TO CONSIDER ALLOWING THE TRANSFER OF FUNDS FOR TERMINATING PROGRAM
9 PARTICIPANTS; ALLOWING CURRENT EMPLOYEES COVERED BY THE PUBLIC EMPLOYEES' RETIREMENT
10 SYSTEM AN OPTION; PROVIDING THAT NEWLY HIRED EMPLOYEES SHALL JOIN THE OPTIONAL
11 RETIREMENT PROGRAM; ESTABLISHING CONTRIBUTION RATES; AMENDING SECTIONS 19-21-101,
12 19-21-102, 19-21-103, 19-21-201, 19-21-202, AND 19-21-203, MCA; AND PROVIDING AN EFFECTIVE
13 DATE."

14

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

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

1 HOUSE BILL NO. 142

2 INTRODUCED BY KASTEN, CHRISTAENS, HERTEL, REAM

3 BY REQUEST OF THE BOARD OF REGENTS

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE MONTANA UNIVERSITY SYSTEM OPTIONAL
6 RETIREMENT PROGRAM TO UNIVERSITY SYSTEM EMPLOYEES ~~OTHERWISE~~ ELIGIBLE FOR MEMBERSHIP
7 UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; ASSIGNING TO THE BOARD OF REGENTS THE
8 DUTY TO CONSIDER ALLOWING THE TRANSFER OF FUNDS FOR TERMINATING PROGRAM
9 PARTICIPANTS; ALLOWING CURRENT AND FUTURE EMPLOYEES IN POSITIONS NOW COVERED BY THE
10 PUBLIC EMPLOYEES' RETIREMENT SYSTEM AN OPTION OF JOINING THE OPTIONAL RETIREMENT
11 PROGRAM OR THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; PROVIDING THAT NEWLY HIRED
12 EMPLOYEES SHALL JOIN THE OPTIONAL RETIREMENT PROGRAM; ESTABLISHING CONTRIBUTION
13 RATES; PROVIDING FOR AN ACTUARIAL STUDY AND RECOMMENDATIONS; AMENDING SECTIONS
14 19-21-101, 19-21-102, 19-21-103, 19-21-201, 19-21-202, AND 19-21-203, MCA; AND PROVIDING AN
15 EFFECTIVE DATE AND TERMINATION DATES."

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

18
19 **Section 1.** Section 19-21-101, MCA, is amended to read:

20 **"19-21-101. Authority to establish optional retirement program.** (1) The board of regents may
21 establish an optional retirement program, as provided in this chapter, for:

22 (a) the administrative officers and members of the instructional and scientific staff of the Montana
23 university system; and

24 (b) Montana university system employees otherwise eligible to be covered under the public
25 employees' retirement system.

26 (2) The program may be an independent plan or part of a larger plan with respect to some or all
27 of the benefits provided.

28 (3) The benefits under the program must be provided through individual annuity contracts, either
29 fixed or variable, or a combination ~~thereof~~ of contracts, issued to and owned by the participants in the
30 program."

1 **Section 2.** Section 19-21-102, MCA, is amended to read:

2 "**19-21-102. ~~Definition of teachers' retirement system~~ Definitions.** In this chapter₇;

3 (1) "teachers' retirement system" means the teachers' retirement system provided for in Title 19,
4 chapter 20; and

5 (2) "public employees' retirement system" means the public employees' retirement system provided
6 for in Title 19, chapter 3."

7

8 **Section 3.** Section 19-21-103, MCA, is amended to read:

9 "**19-21-103. Duties of board of regents.** The board of regents shall:

10 (1) provide for the administration of the program;

11 (2) designate the company or companies from which the contracts are to be purchased and
12 approve the form and content of the contracts, taking into consideration the:

13 (a) nature and extent of the rights and benefits to be provided by the contracts for participants and
14 their beneficiaries;

15 (b) relationship of these rights and benefits to the amount of contributions to be made;

16 (c) suitability of these rights and benefits to the needs of the participants and the interests of the
17 Montana university system in the recruitment and retention of administrative officers, ~~and~~ members of the
18 instructional and scientific staff, and other employees; and

19 (d) ability of the designated company or companies to provide these rights and benefits; and

20 (e) appropriateness of permitting terminated participants to transfer the funds in their optional
21 retirement program annuity contracts to another qualified plan."

22

23 **Section 4.** Section 19-21-201, MCA, is amended to read:

24 "**19-21-201. Participation in program.** (1) Except as provided in subsection (2)₇;

25 (a) academic and professional administrative personnel with individual contracts under the authority
26 of the board of regents are eligible for and may elect to participate in the optional retirement program
27 instead of the teachers' retirement system. This election must be exercised:

28 ~~(a)~~(i) before January 1, 1988, for an eligible person hired before July 1, 1987;

29 ~~(b)~~(ii) within 90 days after entry into service or before January 1, 1988, whichever is later, for a
30 person hired in an eligible position on or after July 1, 1987; and

1 ~~(e)(iii)~~ within 30 days after receiving written notice of eligibility or before January 1, 1988,
2 whichever is later, for an employee who becomes eligible to participate in the optional retirement program
3 by reason of appointment, promotion, transfer, or reclassification to an eligible position.

4 (b) employees of the Montana university system who are members of the public employees'
5 retirement system may elect to participate in the optional retirement program. This election must be
6 exercised:

7 (i) before January 1, 1998, for an eligible person hired before July 1, 1997;

8 (ii) within 90 days after entry into service or before January 1, 1998, whichever is later, for a
9 person hired in an eligible position on or after July 1, 1997; and

10 (iii) within 30 days after receiving written notice of eligibility or before January 1, 1998, whichever
11 is later, for an employee who becomes eligible to participate in the optional retirement program by reason
12 of appointment, promotion, transfer, or reclassification to an eligible position.

13 (2) (a) An eligible person hired on or after July 1, 1993, or January 1, 1998, in the case of a
14 person who ~~would otherwise be~~ IS eligible for membership in the public employees' retirement system, shall
15 become a member of the optional retirement plan PROGRAM unless the person is, on the date hired, an
16 active, inactive, or retired member of a public retirement system created in Title 19, chapter 3 or 20, OR
17 UNLESS THE PERSON WHO IS ELIGIBLE TO BE A MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT
18 SYSTEM ELECTS TO JOIN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND TO NOT JOIN THE
19 OPTIONAL RETIREMENT PROGRAM.

20 (b) A person hired who is a member of a public retirement system created in Title 19, chapter 3
21 or 20, shall elect to:

22 (i) remain with the retirement system of which the person is a member on the date hired; or

23 (ii) become a member of the optional retirement plan.

24 (c) A person eligible to make an election under this subsection (2) shall exercise the election within
25 30 days of being hired.

26 (3) The election must be exercised by filing a written notice with the teachers' retirement system
27 or the public employees' retirement system, whichever is applicable, and the disbursing officer of the
28 employer. ~~The~~ For persons eligible under subsection (1)(a), the election is effective as of the date that the
29 notice is filed or January 1, 1988, whichever is later. For persons eligible under subsection (1)(b), the
30 election is effective as of the date that the notice is filed or January 1, 1998, whichever is later. FOR

1 PERSONS ELIGIBLE UNDER SUBSECTION (2), THE ELECTION IS EFFECTIVE AS OF THE DATE THE
 2 ELECTION NOTICE IS FILED.

3 (4) If an eligible officer, employee, or staff member fails to exercise the election, as provided by
 4 this section, that person ~~must~~ shall remain or become a member of the teachers' retirement system or the
 5 public employees' retirement system, whichever is applicable, EXCEPT THAT AN ELIGIBLE PERSON HIRED
 6 ON OR AFTER JANUARY 1, 1998, WHO IS ELIGIBLE FOR MEMBERSHIP IN THE PUBLIC EMPLOYEES'
 7 RETIREMENT SYSTEM BUT WHO IS NOT, ON THE DATE HIRED, AN ACTIVE, INACTIVE, OR RETIRED
 8 MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM SHALL BECOME A MEMBER OF THE
 9 OPTIONAL RETIREMENT PROGRAM.

10 (5) An election under this section is not effective unless the notice filed with the disbursing officer
 11 of the employer is accompanied by an appropriate application, if one is required, for the issuance of a
 12 contract or contracts under the program."
 13

14 **Section 5.** Section 19-21-202, MCA, is amended to read:

15 **"19-21-202. Effect on rights under teachers' retirement system and public employees' retirement**
 16 **system.** (1) An election under 19-21-201 to participate in the optional retirement program is a waiver of
 17 all rights and benefits under the teachers' or public employees' retirement system except as provided in this
 18 section.

19 (2) A member of the teachers' or public employees' retirement system who elects to participate
 20 in the optional retirement program is considered, for the purpose of determining eligibility for rights and
 21 benefits under that system, to be no longer employed in a capacity that allows active membership in that
 22 system as of the effective date of the election. ~~Thereafter~~ After the date of election, the member is
 23 considered an inactive member of the retirement system if qualified under 19-3-401 or 19-20-303, with
 24 the rights and privileges provided under 19-3-318 or 19-20-603(1), as applicable. A member who elects
 25 to participate in the optional retirement program who does not qualify as an inactive member under
 26 19-3-401 or 19-20-303 is considered a terminated member of the retirement system under 19-2-601 or
 27 19-20-304(4), as applicable.

28 (3) A person who elects to participate in the optional retirement program is ineligible to be an active
 29 member of the teachers' or public employees' retirement system while continuously employed in a position
 30 eligible to participate in the optional retirement program."

1 **Section 6.** Section 19-21-203, MCA, is amended to read:

2 **"19-21-203. Contributions.** (1) (a) Each optional retirement program participant shall contribute
3 an amount equal to the member's contribution required under 19-20-602 or, in the case of participants
4 otherwise WHO ARE eligible for membership in the public employees' retirement system, the contribution
5 required under 19-3-315.

6 (b) The board of regents shall contribute an amount that, when added to the participant's
7 contribution, is equal to 12% of the participant's earned compensation.

8 (2) (a) ~~On or after July 1, 1997, the~~ The board of regents may:

9 (i) reduce the participant's contribution rate established in subsection (1) to an amount not less
10 than 6% of the participant's earned compensation; and

11 (ii) increase the employer's contribution rate to an amount not greater than 6% of the participant's
12 earned compensation.

13 (b) The sum of the participant's and employer's contributions made under subsection (2)(a) must
14 remain at 12% of the participant's earned compensation.

15 (3) The board of regents shall determine whether the participant's contribution is to be made by
16 salary reduction under section 403(b) of the Internal Revenue Code of 1954 or by employer pick-up under
17 section 414(h)(2) of that code.

18 (4) The disbursing officer of the employer or other official designated by the board of regents shall
19 pay both the participant's contribution and the appropriate portion of the regents' contribution to the
20 designated company or companies for the benefit of the participant.

21 (5) (a) The board of regents shall contribute the amounts specified in ~~subsection~~ subsections (5)(b)
22 and (5)(c) to the teachers' retirement system or to the public employees' retirement system, whichever is
23 applicable, to discharge the obligation incurred by the employees of the Montana university system who
24 elect or who are required to become members of the optional retirement plan. The contributions paid by
25 the board are for the past service liability incurred by active, inactive, and retired members of the teachers'
26 retirement system or the public employees' retirement system, whichever is applicable, and must be
27 consistent with the requirements of 19-21-111.

28 (b) (i) Beginning July 1, 1993, through June 30, 1997, the contributions to be made by the board
29 of regents to the teachers' retirement system must equal 2.503% of earned compensation attributable to
30 optional retirement participants eligible under 19-21-201(1)(a).

1 (ii) Beginning July 1, 1997, the contribution rate to the teachers' retirement system must be
 2 adjusted, pursuant to 19-20-201, based on the actual experience of the members of the Montana university
 3 system who are members of the teachers' retirement system, and must be set at a rate sufficient to
 4 amortize the past service liability of the university system members by July 1, 2033.

5 (c) ~~(i) Beginning January 1, 1998, through June 30, 2003, the contributions to be made by the~~
 6 ~~board of regents to the public employees' retirement system must equal 4.40% 3.1% of earned~~
 7 ~~compensation attributable to optional retirement program participants eligible pursuant to 19-21-201(1)(b).~~

8 ~~(ii) Beginning July 1, 2003, the contribution rate to the public employees' retirement system must~~
 9 ~~be adjusted, pursuant to 19-2-405 and this section, based on the actual experience of university system~~
 10 ~~employees who are members of the public employees' retirement system, and must be sufficient to~~
 11 ~~amortize the past service liability of the university system members by July 1, 2013 2027.~~

12 (6) (A) IN 2002, THE PUBLIC EMPLOYEES' RETIREMENT BOARD SHALL CONDUCT AN
 13 ACTUARIAL STUDY ON THE SUFFICIENCY OF THE CONTRIBUTIONS UNDER SUBSECTION (5)(C) TO THE
 14 PUBLIC EMPLOYEES' RETIREMENT SYSTEM, BASED ON THE ACTUAL EXPERIENCE OF UNIVERSITY
 15 SYSTEM EMPLOYEES WHO ARE MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, TO
 16 AMORTIZE THE PAST SERVICE LIABILITY OF THE UNIVERSITY SYSTEM MEMBERS BY JULY 1, 2027.

17 (B) THE PUBLIC EMPLOYEES' RETIREMENT BOARD SHALL PRESENT ITS FINDINGS AND
 18 RECOMMENDATIONS TO THE 58TH LEGISLATURE.

19 (C) IF THE LEGISLATURE FAILS TO SET A NEW CONTRIBUTION RATE TO THE PUBLIC
 20 EMPLOYEES' RETIREMENT SYSTEM FOR THE PAST SERVICE LIABILITY, THE PUBLIC EMPLOYEES'
 21 RETIREMENT BOARD, PURSUANT TO 19-2-405, SHALL SET THE RATE BASED ON THE ACTUAL
 22 EXPERIENCE OF UNIVERSITY SYSTEM EMPLOYEES WHO ARE MEMBERS OF THE PUBLIC EMPLOYEES'
 23 RETIREMENT SYSTEM TO AMORTIZE THE LIABILITY BY JULY 1, 2027."

24
 25 NEW SECTION. SECTION 7. COORDINATION INSTRUCTIONS. (1) IF HOUSE BILL NO. 174 IS
 26 PASSED AND APPROVED AND IF IT AMENDS 19-8-301 TO PROVIDE THAT CAMPUS SECURITY
 27 OFFICERS MUST BECOME MEMBERS OF THE GAME WARDENS' AND STATE PEACE OFFICERS'
 28 RETIREMENT SYSTEM OR AMENDS 19-8-302 TO ALLOW CURRENT CAMPUS SECURITY OFFICERS IN
 29 THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM THE OPTION OF EITHER REMAINING IN THE PUBLIC
 30 EMPLOYEES' RETIREMENT SYSTEM OR OF JOINING THE GAME WARDENS' AND STATE PEACE

1 OFFICERS' RETIREMENT SYSTEM, THEN [SECTION 4(1)(B) OF THIS ACT], AMENDING 19-21-201, MUST
 2 READ:

3 "(b) employees of the Montana university system who are members of the public employees'
 4 retirement system, except for campus security officers, may elect to participate in the optional retirement
 5 program. This election must be exercised:

6 (i) before January 1, 1998, for an eligible person hired before July 1, 1997;

7 (ii) within 90 days after entry into service or before January 1, 1998, whichever is later, for a
 8 person hired in an eligible position on or after July 1, 1997; and

9 (iii) within 30 days after receiving written notice of eligibility or before January 1, 1998, whichever
 10 is later, for an employee who becomes eligible to participate in the optional retirement program by reason
 11 of appointment, promotion, transfer, or reclassification to an eligible position."

12 (2) IF HOUSE BILL NO. 121 IS PASSED AND APPROVED AND IF IT AMENDS 19-21-203 AND
 13 CONTAINS A SECTION REQUIRING SUPPLEMENTAL CONTRIBUTIONS TO THE TEACHERS' RETIREMENT
 14 SYSTEM BY EMPLOYERS WITHIN THE UNIVERSITY SYSTEM, THEN [SECTION 6 OF THIS ACT],
 15 AMENDING 19-21-203, MUST READ:

16 **"Section 6.** Section 19-21-203, MCA, is amended to read:

17 **"19-21-203. Contributions.** (1) (a) Each optional retirement program participant shall contribute
 18 an amount equal to the member's contribution required under 19-20-602 or, in the case of participants
 19 eligible for membership in the public employees' retirement system, the contribution required under
 20 19-3-315.

21 (b) The board of regents shall contribute an amount that, when added to the participant's
 22 contribution, is equal to 12% of the participant's earned compensation.

23 (2) (a) ~~On or after July 1, 1997, the~~ The board of regents may:

24 (i) reduce the participant's contribution rate established in subsection (1) to an amount not less
 25 than 6% of the participant's earned compensation; and

26 (ii) increase the employer's contribution rate to an amount not greater than 6% of the participant's
 27 earned compensation.

28 (b) The sum of the participant's and employer's contributions made under subsection (2)(a) must
 29 remain at 12% of the participant's earned compensation.

30 (3) The board of regents shall determine whether the participant's contribution is to be made by

1 salary reduction under section 403(b) of the Internal Revenue Code of 1954 or by employer pick-up under
2 section 414(h)(2) of that code.

3 (4) The disbursing officer of the employer or other official designated by the board of regents shall
4 pay both the participant's contribution and the appropriate portion of the regents' contribution to the
5 designated company or companies for the benefit of the participant.

6 (5) (a) The board of regents shall ~~contribute the amounts specified in subsection (5)(b)~~ make the
7 supplemental contributions to the teachers' retirement system as provided in [section 1 of House Bill No.
8 121] to discharge the obligation incurred by ~~the employees of the Montana university system who elect~~
9 ~~or who are required to become members of the optional retirement plan. The contributions paid by the~~
10 ~~board are~~ for the past service liability incurred by active, inactive, and retired members of the teachers'
11 retirement system ~~and must be consistent with the requirements of 19-21-111.~~

12 (b) (i) ~~Beginning July 1, 1993, through June 30, 1997, the contributions to be made by the board~~
13 ~~of regents must equal 2.503% of earned compensation attributable to optional retirement participants.~~

14 (ii) ~~Beginning July 1, 1997, the contribution rate must be adjusted, pursuant to 19-20-201, based~~
15 ~~on the actual experience of the members of the Montana university system who are members of the~~
16 ~~teachers' retirement system, and must be set at a rate sufficient to amortize the past service liability of the~~
17 ~~university system members by July 1, 2033. Beginning January 1, 1998, through June 30, 2003, the board~~
18 ~~of regents shall make supplemental contributions to the public employees' retirement system equal to 3.1%~~
19 ~~of earned compensation attributable to optional retirement program participants eligible pursuant to~~
20 19-21-201(1)(b)."

21
22 NEW SECTION. Section 8. Effective date. [This act] is effective July 1, 1997.

23
24 NEW SECTION. SECTION 9. TERMINATION. (1) EXCEPT AS PROVIDED IN SUBSECTION (2),
25 [THIS ACT] TERMINATES JUNE 30, 2003.

26 (2) [SECTION 6(6)(C)] TERMINATES JUNE 30, 2027.

27 -END-