



AN ACT GENERALLY REVISING THE HIGHWAY PATROL OFFICERS' RETIREMENT SYSTEM; DECREASING THE GUARANTEED ANNUAL BENEFIT ADJUSTMENT FOR NEW MEMBERS; REQUIRING NEW MEMBERS TO WAIT 3 YEARS BEFORE RECEIVING THE GUARANTEED ANNUAL BENEFIT ADJUSTMENT; INCREASING THE YEARS OF MEMBERSHIP SERVICE NEEDED FOR A NEW MEMBER TO PURCHASE SERVICE CREDIT AND TO RECEIVE A RETIREMENT BENEFIT; INCREASING EMPLOYEE CONTRIBUTIONS FOR EXISTING MEMBERS AND NEW HIRES; INCREASING THE STATE EMPLOYER CONTRIBUTION; INCREASING THE BENEFIT MULTIPLIER FOR ALL MEMBERS; RESTRICTING THE USES OF THE SPECIAL STATE REVENUE FUND TO FUND THE HIGHWAY PATROL OFFICERS' SALARIES; AMENDING SECTIONS 19-2-303, 19-6-301, 19-6-402, 19-6-404, 19-6-502, 19-6-503, 19-6-601, 19-6-707, 19-6-710, 19-6-711, 19-6-801, 19-6-803, AND 19-6-804, MCA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VIII, section 15, of the Montana Constitution requires that "Public retirement systems shall be funded on an actuarially sound basis"; and

WHEREAS, Article VIII, section 15, of the Montana Constitution also requires that "Public retirement system assets, including income and actuarially required contributions, shall not be encumbered, diverted, reduced, or terminated and shall be held in trust to provide benefits to participants and their beneficiaries and to defray administrative expenses"; and

WHEREAS, the unprecedented collapse of the financial markets in 2008 and 2009 and the subsequent slow rate of economic recovery has resulted in little or no prospect that current statutory contribution rates together with future market returns will be sufficient to fund the Highway Patrol Officers' Retirement System on an actuarially sound basis, and current contributions remain insufficient to pay the past and future accruals of retirement benefits for current members of the system; and

WHEREAS, failure to return the system to a position of actuarially sound funding places the benefits to be paid to the current system members in jeopardy and results in collection of employee contributions for which future benefits may not be guaranteed; and

WHEREAS, because reasonable increases in employer contributions and future employee contributions

and reasonable reductions in benefits for future members alone will not be sufficient to return the system to a position of actuarially sound funding, increased contributions for current and future members and reduced benefits for future members are necessary to return the system to a position of actuarially sound funding; and

WHEREAS, during the past two legislative sessions and interims, the Legislature, interim committees, the retirement system board and staff, and the Governor's office have analyzed a range of alternatives for returning all public employee retirement systems to a position of actuarially sound funding without raising contract impairment issues for current members, but recent actuarial analysis continues to show that several of the systems, including the Highway Patrol Officers' Retirement System remain actuarially unsound; and

WHEREAS, due to significant strains on the Montana economy and taxpayers, a modest supplemental contribution rate increase applied to current Highway Patrol Officers' Retirement System members, phased in over a 4-year period, in conjunction with additional employer and state contributions, is reasonable and necessary pursuant to the language of *U.S. Trust Company of New York v. New Jersey*, 431 U.S. 1 (1977), concerning contract impairment and is the least impairing alternative available to the Legislature as it seeks to fulfill its constitutional obligation to ensure the Highway Patrol Officers' Retirement System is funded in an actuarially sound manner; and

WHEREAS, the defined benefit Highway Patrol Officers' Retirement System is integral to the successful recruitment and retention of qualified Montana highway patrol officers.

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

Section 1. Guaranteed annual benefit adjustment for employees hired after July 1, 2013. (1)

Subject to subsection (2), for employees hired on or after July 1, 2013, on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 1.5%.

(2) (a) If the recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 1.5% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 1.5% in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more

adjustments not provided for in this section and the adjustments amount to more than a 1.5% annualized increase, then the benefit increase provided for under this section must be 0%.

(3) Except as provided for in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made; and

(b) the member first became an active member on or after July 1, 2013.

(4) The board shall adopt rules to administer the provisions of this section.

Section 2. Section 19-2-303, MCA, is amended to read:

"19-2-303. Definitions. Unless the context requires otherwise, for each of the retirement systems subject to this chapter, the following definitions apply:

(1) "Accumulated contributions" means the sum of all the regular and any additional contributions made by a member in a defined benefit plan, together with the regular interest on the contributions.

(2) "Active member" means a member who is a paid employee of an employer, is making the required contributions, and is properly reported to the board for the most current reporting period.

(3) "Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory manner to represent the present value of the benefits to be derived from the additional service to be credited based on the most recent actuarial valuation for the system and the age, years until retirement, and current salary of the member.

(4) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality table and interest rate assumptions adopted by the board.

(5) "Actuarial liabilities" means the excess of the present value of all benefits payable under a defined benefit retirement plan over the present value of future normal costs in that retirement plan.

(6) "Actuary" means the actuary retained by the board in accordance with 19-2-405.

(7) "Additional contributions" means contributions made by a member of a defined benefit plan to purchase various types of optional service credit as allowed by the applicable retirement plan.

(8) "Annuity" means:

(a) in the case of a defined benefit plan, equal and fixed payments for life that are the actuarial equivalent

of a lump-sum payment under a retirement plan and as such are not benefits paid by a retirement plan and are not subject to periodic or one-time increases; or

(b) in the case of the defined contribution plan, a payment of a fixed sum of money at regular intervals.

(9) "Banked holiday time" means the hours reported for work performed on a holiday that the employee may use for equivalent time off or that may be paid to the employee as specified by the employer's policy.

(10) "Benefit" means:

(a) the service retirement benefit, early retirement benefit, or disability retirement or survivorship benefit payment provided by a defined benefit retirement plan; or

(b) a payment or distribution under the defined contribution retirement plan, including a disability payment under 19-3-2141, for the exclusive benefit of a plan member or the member's beneficiary or an annuity purchased under 19-3-2124.

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

(12) "Contingent annuitant" means:

(a) under option 2 or 3 provided for in 19-3-1501, one natural person designated to receive a continuing monthly benefit after the death of a retired member; or

(b) under option 4 provided for in 19-3-1501, a natural person, charitable organization, estate, or trust that may receive a continuing monthly benefit after the death of a retired member.

(13) "Covered employment" means employment in a covered position.

(14) "Covered position" means a position in which the employee must be a member of the retirement system except as otherwise provided by law.

(15) "Defined benefit retirement plan" or "defined benefit plan" means a plan within the retirement systems provided for pursuant to 19-2-302 that is not the defined contribution retirement plan.

(16) "Defined contribution retirement plan" or "defined contribution plan" means the plan within the public employees' retirement system established in 19-3-103 that is provided for in chapter 3, part 21, of this title and that is not a defined benefit plan.

(17) "Department" means the department of administration.

(18) "Designated beneficiary" means the person, charitable organization, estate, or trust for the benefit of a natural person designated by a member or payment recipient to receive any survivorship benefits, lump-sum payments, or benefit from a retirement account upon the death of the member or payment recipient, including

annuities derived from the benefits or payments.

(19) "Direct rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

(20) "Disability" or "disabled" means a total inability of the member to perform the member's duties by reason of physical or mental incapacity. The disability must be incurred while the member is an active member and must be one of permanent duration or of extended and uncertain duration, as determined by the board on the basis of competent medical opinion.

(21) "Distributee" means:

- (a) a member;
- (b) a member's surviving spouse;
- (c) a member's spouse or former spouse who is the alternate payee under a family law order as defined in 19-2-907; or

(d) effective January 1, 2007, a member's nonspouse beneficiary who is a designated beneficiary as defined by section 401(a)(9)(E) of the Internal Revenue Code, 26 U.S.C. 401(a)(9)(E).

(22) "Early retirement benefit" means the retirement benefit payable to a member following early retirement and is the actuarial equivalent of the accrued portion of the member's service retirement benefit.

(23) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

- (a) an individual retirement account described in section 408(a) of the Internal Revenue Code, 26 U.S.C. 408(a);
- (b) an individual retirement annuity described in section 408(b) of the Internal Revenue Code, 26 U.S.C. 408(b);
- (c) an annuity plan described in section 403(a) of the Internal Revenue Code, 26 U.S.C. 403(a);
- (d) a qualified trust described in section 401(a) of the Internal Revenue Code, 26 U.S.C. 401(a);
- (e) effective January 1, 2002, an annuity contract described in section 403(b) of the Internal Revenue Code, 26 U.S.C. 403(b);

(f) effective January 1, 2002, a plan eligible under section 457(b) of the Internal Revenue Code, 26 U.S.C. 457(b), that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan

from a plan under this title; or

(g) effective January 1, 2008, a Roth IRA described in section 408A of the Internal Revenue Code, 26 U.S.C. 408A.

(24) "Eligible rollover distribution":

(a) means any distribution of all or any portion of the balance from a retirement plan to the credit of the distributee, as provided in 19-2-1011;

(b) effective January 1, 2002, includes a distribution to a surviving spouse or to a spouse or former spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Internal Revenue Code, 26 U.S.C. 414(p).

(25) "Employee" means a person who is employed by an employer in any capacity and whose salary is being paid by the employer or a person for whom an interlocal governmental entity is responsible for paying retirement contributions pursuant to 7-11-105.

(26) "Employer" means a governmental agency participating in a retirement system enumerated in 19-2-302 on behalf of its eligible employees. The term includes an interlocal governmental entity identified as responsible for paying retirement contributions pursuant to 7-11-105.

(27) "Essential elements of the position" means fundamental job duties. An element may be considered essential because of but not limited to the following factors:

- (a) the position exists to perform the element;
- (b) there are a limited number of employees to perform the element; or
- (c) the element is highly specialized.

(28) "Fiscal year" means a plan year, which is any year commencing with July 1 and ending the following June 30.

(29) "Inactive member" means a member who terminates service and does not retire or take a refund of the member's accumulated contributions.

(30) "Internal Revenue Code" has the meaning provided in 15-30-2101.

(31) "Member" means either:

- (a) a person with accumulated contributions and service credited with a defined benefit retirement plan or receiving a retirement benefit on account of the person's previous service credited in a retirement system; or
- (b) a person with a retirement account in the defined contribution plan.

(32) "Membership service" means the periods of service that are used to determine eligibility for retirement or other benefits.

(33) (a) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost method required to fund accruing benefits for members of a defined benefit retirement plan during any year in the future.

(b) Normal cost does not include any portion of the supplemental costs of a retirement plan.

(34) "Normal retirement age" means the age at which a member is eligible to immediately receive a retirement benefit based on the member's age, length of service, or both, as specified under the member's retirement system, without disability and without an actuarial or similar reduction in the benefit.

(35) "Pension" means benefit payments for life derived from contributions to a retirement plan made from state- or employer-controlled funds.

(36) "Pension trust fund" means a fund established to hold the contributions, income, and assets of a retirement system or plan in public trust.

(37) "Plan choice rate" means the amount of the employer contribution as a percentage of payroll covered by the defined contribution plan members that is allocated to the public employees' retirement system's defined benefit plan pursuant to 19-3-2117 and that is adjusted by the board pursuant to 19-3-2121 to actuarially fund the unfunded liabilities and the normal cost rate changes in a defined benefit plan resulting from member selection of the defined contribution plan.

(38) "Regular contributions" means contributions required from members under a retirement plan.

(39) "Regular interest" means interest at rates set from time to time by the board.

(40) "Retirement" or "retired" means the status of a member who has:

- (a) terminated from service; and
- (b) received and accepted a retirement benefit from a retirement plan.

(41) "Retirement account" means an individual account within the defined contribution retirement plan for the deposit of employer and member contributions and other assets for the exclusive benefit of a member of the defined contribution plan or the member's beneficiary.

(42) "Retirement benefit" means:

(a) in the case of a defined benefit plan, the periodic benefit payable as a result of service retirement, early retirement, or disability retirement under a defined benefit plan of a retirement system. With respect to a

defined benefit plan, the term does not mean an annuity.

(b) in the case of the defined contribution plan, a benefit as defined in subsection (10)(b).

(43) "Retirement plan" or "plan" means either a defined benefit plan or a defined contribution plan under one of the public employee retirement systems enumerated in 19-2-302.

(44) "Retirement system" or "system" means one of the public employee retirement systems enumerated in 19-2-302.

(45) "Service" means employment of an employee in a position covered by a retirement system.

(46) "Service credit" means the periods of time for which the required contributions have been made to a retirement plan and that are used to calculate retirement benefits or survivorship benefits under a defined benefit retirement plan.

(47) "Service retirement benefit" means the retirement benefit that the member may receive at normal retirement age.

(48) "Statutory beneficiary" means the surviving spouse or dependent child or children of a member of the highway patrol officers', municipal police officers', or firefighters' unified retirement system who are statutorily designated to receive benefits upon the death of the member.

(49) "Supplemental cost" means an element of the total actuarial cost of a defined benefit retirement plan arising from benefits payable for service performed prior to the inception of the retirement plan or prior to the date of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure to fund or otherwise recognize normal cost accruals or interest on supplemental costs. These costs are included in the unfunded actuarial liabilities of the retirement plan.

(50) "Survivorship benefit" means payments for life to the statutory or designated beneficiary of a deceased member who died while in service under a defined benefit retirement plan.

(51) "Termination of employment", "termination from employment", "terminated employment", "terminated from employment", "terminate employment", or "terminates employment" means that:

(a) there has been a complete severance of a covered employment relationship by the positive act of either the employee, the employer, or both; and

(b) the member is no longer receiving compensation for covered employment, other than any outstanding lump-sum payment for compensatory leave, sick leave, or annual leave.

(52) "Termination of service", "termination from service", "terminated from service", "terminated service",

"terminating service", or "terminates service" means that:

(a) there has been a complete severance of a covered employment relationship by the positive act of either the employee, the employer, or both for at least 30 days;

(b) no written or verbal agreement exists between employee and employer that the employee will return to covered employment in the future;

(c) the member is no longer receiving compensation for covered employment; and

(d) the member has been paid all compensation for compensatory leave, sick leave, or annual leave to which the member was entitled. For the purposes of this subsection (52), compensation does not mean compensation as a result of a legal action, court order, or settlement to which the board was not a party.

(53) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a defined benefit retirement plan's actuarial liabilities at any given point in time over the value of its cash and investments on that same date.

(54) "Vested account" means an individual account within a defined contribution plan that is for the exclusive benefit of a member or the member's beneficiary. A vested account includes all contributions and the income on all contributions in each of the following accounts:

(a) the member's contribution account;

(b) the vested portion of the employer's contribution account; and

(c) the member's account for other contributions.

(55) "Vested member" or "vested" means:

(a) with respect to a defined benefit plan, except as provided in subsection (55)(b), a member or the status of a member who has at least 5 years of membership service; ~~or~~

(b) with respect to a member of the highway patrol officers' retirement system established in Title 19, chapter 6, who was hired on or after [the effective date of this act], a member or the status of the member who has at least 10 years of membership service; or

~~(b)(c)~~ with respect to the defined contribution plan, a member or the status of a member who meets the minimum membership service requirement of 19-3-2116.

(56) "Written application" or "written election" means a written instrument, prescribed by the board or required by law, properly signed and filed with the board, that contains all required information, including documentation that the board considers necessary.

(57) "Written instrument" includes an electronic record containing an electronic signature, as defined in 30-18-102."

Section 3. Section 19-6-301, MCA, is amended to read:

"19-6-301. Membership -- inactive vested members -- inactive nonvested members. (1) All members of the Montana highway patrol, including the supervisor and assistant supervisors, must be members of the retirement system.

(2) (a) An inactive member hired before July 1, 2013, with at least 5 years of membership service is an inactive vested member and retains the right to purchase service and to receive a retirement benefit under the provisions of this chapter.

(b) An inactive member hired on or after July 1, 2013, with at least 10 years of membership service is an inactive vested member and retains the right to purchase service and to receive a retirement benefit under the provisions of this chapter.

~~(b)(c)~~ If an inactive vested member chooses to take a lump-sum payment rather than a retirement benefit, the lump-sum payment consists of only the member's accumulated contributions and not the employer's contributions.

(3) (a) An inactive member hired before July 1, 2013, with less than 5 years of membership service is an inactive nonvested member and is not eligible for any benefits from the retirement system.

(b) An inactive member hired on or after July 1, 2013, with less than 10 years of membership service is an inactive nonvested member and is not eligible for any benefits from the retirement system.

~~(b)(c)~~ An inactive nonvested member is eligible only for a refund of the member's accumulated contributions."

Section 4. Section 19-6-402, MCA, is amended to read:

"19-6-402. Member's contribution. (1) (a) A member not covered under 19-6-710 shall contribute 9% the following percentage of the member's compensation-:

(i) beginning July 1, 2013, through June 30, 2014, 10%;

(ii) beginning July 1, 2014, through June 30, 2015, 11%;

(iii) beginning July 1, 2015, through June 30, 2016, 12%; and

(iv) beginning July 1, 2016, 13%.

(b) A member covered under 19-6-710, 19-6-711, or [section 1] shall contribute ~~9.05%~~ the following percentage of the member's compensation:-

(i) beginning July 1, 2013, through June 30, 2014, 10.05%;

(ii) beginning July 1, 2014, through June 30, 2015, 11.05%;

(iii) beginning July 1, 2015, through June 30, 2016, 12.05%; and

(iv) beginning July 1, 2016, 13.05%.

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

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

(4) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the member's wages, as defined in 19-1-102, and compensation as used to define the member's highest average compensation in 19-6-101. The employer shall deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer and remit the total of the contributions to the board."

Section 5. Section 19-6-404, MCA, is amended to read:

"19-6-404. State employer contribution -- statutory appropriation. The state shall pay as employer contributions ~~36.33%~~ 38.33% of compensation paid to all of the employer's employees, except those properly excluded from membership, from the following sources:

(1) an amount equal to ~~26.45%~~ 28.15% of the total compensation of the members, which is payable, as appropriated by the legislature, from the same source that is used to pay compensation to the members; and

(2) an amount equal to 10.18% of the total compensation of the members, which is statutorily appropriated, as provided in 17-7-502, from the general fund to the pension trust fund."

Section 6. Section 19-6-502, MCA, is amended to read:

"19-6-502. Service retirement benefit. After termination from service and upon application for service retirement, a member must receive a service retirement benefit equal to ~~2.5%~~ 2.6% of the member's highest average compensation for each year of service credit."

Section 7. Section 19-6-503, MCA, is amended to read:

"19-6-503. Early retirement benefit for member discontinued from service other than for cause.

(1) If a member hired before July 1, 2013, is discontinued from service other than for cause after having completed 5 years of membership service but before reaching normal retirement age, the member must, upon filing a written application with the board, be paid an early service retirement benefit that is of actuarial equivalent value to a service retirement based on a retirement age of 60.

(2) If a member hired on or after July 1, 2013, is discontinued from service other than for cause after having completed 10 years of membership service but before reaching normal retirement age, the member must, upon filing a written application with the board, be paid an early service retirement benefit that is of actuarial equivalent value to a service retirement based on a retirement age of 60."

Section 8. Section 19-6-601, MCA, is amended to read:

"19-6-601. Disability retirement benefit. (1) A member who becomes disabled must be granted a disability retirement benefit that is the actuarial equivalent of the service retirement benefit under 19-6-502 standing to the member's credit at the time of the member's disability retirement.

(2) A member who becomes disabled as a direct result of the member's service in the line of duty:

(a) before completing 20 years of membership service must receive a disability retirement benefit equal to one-half the member's highest average compensation; or

(b) after completing 20 years or more of membership service must receive a disability retirement benefit equal to ~~2.5%~~ 2.6% of the member's highest average compensation for each year of service credit.

(3) Upon the death of a member receiving a disability retirement benefit under this section, the member's surviving spouse or dependent child is eligible for benefits as provided in 19-6-505."

Section 9. Section 19-6-707, MCA, is amended to read:

"19-6-707. Minimum monthly benefit. (1) Subject to the limitations contained in subsection (2), the following retired members, or their survivors, who are not covered by 19-6-710, ~~or~~ 19-6-711, or [section 1] are eligible to receive a monthly benefit of not less than 2% multiplied by the member's service credits multiplied by the current base compensation received by a probationary highway patrol officer:

(a) a retired member who is 55 years of age or older, except as provided in subsection (3), or the member's survivor, who is receiving a service retirement benefit;

(b) a retired member, or the member's survivor, who is receiving a disability retirement benefit; and

(c) a recipient of a survivorship benefit.

(2) (a) The maximum monthly benefit paid under subsection (1) may not exceed 60% of the current base compensation of a probationary highway patrol officer.

(b) The annual increase in a monthly benefit under subsection (1) may not exceed 5% of the current monthly benefit paid to a retired member or the member's survivor.

(3) A retired member otherwise qualified under subsection (1)(a) who is employed in a position covered by a retirement system under Title 19 is ineligible to receive the minimum monthly benefit provided for in this section until the member's service in the covered position is terminated."

Section 10. Section 19-6-710, MCA, is amended to read:

"19-6-710. Guaranteed annual benefit adjustment. (1) Subject to subsection (2), for members hired before July 1, 2013, on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 3%.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 3% in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a 3% annualized increase, then the benefit increase provided under this section must be 0%.

(3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's commencement date is at least 12 months prior to January 1 of the year in which the adjustment is to be made; and

(b) the member either:

(i) first became an active member on or after July 1, 1997; or

(ii) filed a voluntary, irrevocable election to be covered under this section. The election must be filed with the board prior to January 1, 1998, and requires an active member to pay an increased contribution rate from July 1, 1997, forward. A retired member or the member's survivor who is receiving a monthly benefit before July 1, 1997, shall also file the voluntary, irrevocable election no later than January 1, 1998, to be covered under this section.

(4) The board shall adopt rules to administer the provisions of this section."

Section 11. Section 19-6-711, MCA, is amended to read:

"19-6-711. Election -- guaranteed annual benefit adjustment. (1) Subject to subsection (2), for members hired before July 1, 2013, on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 3%.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 3% in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a 3% annualized increase, then the benefit increase provided under this section must be 0%.

(3) A benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's commencement date is at least 12 months prior to January 1 of the year in which the adjustment is to be made; and

(b) the member either:

(i) first became an active member on or after July 1, 1997; or

(ii) filed a voluntary, irrevocable election to be covered under this section. The election:

(A) must be filed with the board prior to December 1, 2001; and
 (B) requires an active member to pay an increased or revised contribution rate from January 1, 2002, forward.

(4) The board shall adopt rules to administer the provisions of this section.

(5) The decision of a member who elected to participate under 19-6-710 remains valid. The decision of a member who elected not to participate under 19-6-710 may be reversed under this section."

Section 12. Section 19-6-801, MCA, is amended to read:

"19-6-801. Application to purchase military service. (1) (a) Except as provided in subsection (1)(b) and subject to 19-6-805, an eligible member may, at any time prior to retirement, file a written application with the board to purchase service credit and membership service for up to 5 years of the member's active service in the armed forces of the United States.

(b) A member is not eligible to purchase active military service credit and membership service under subsection (1)(a) if the member:

(i) has retired from active duty in the armed forces of the United States with military retirement benefits based on that military service;

(ii) is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or

(iii) is eligible to receive credit for that service in any other retirement system or plan.

(2) (a) Except as provided in subsection ~~(2)(b)~~ (3) and subject to subsection (2)(b) and 19-6-805, a member ~~with at least 5 years of membership service~~ may, at any time prior to retirement, file a written application with the board to purchase service credit and membership service for up to 5 years of the member's reserve military service in the armed forces of the United States.

(b) A member must have at least the following years of membership service to apply to purchase service credit under subsection (2)(a):

(i) for a member hired before July 1, 2013, 5 years; and

(ii) for a member hired on or after July 1, 2013, 10 years.

~~(b)(3)~~ A member is not eligible to purchase reserve military service credit and membership service under subsection (2)(a) if the member is eligible, pursuant to 19-2-707, to receive credit in the system for that service.

~~(3)(4)~~ To purchase service credit and membership service under this section:

(a) a member with at least 15 years of service credit who is not covered by 19-6-710 shall contribute the amount determined by the board to be due based on the member's compensation and regular contribution rate in the member's 16th year for the 1st year purchased and, for each subsequent year purchased, an amount based on the member's compensation and contribution rate in each of as many years succeeding the member's 16th year as are required to complete the purchase, with regular interest from the date the member becomes eligible for this benefit to the date the purchase is complete. The combined total of active and reserve military service credit and membership service that a member may purchase may be no more than the member's service credit in excess of 15 years or 5 years, whichever is less.

(b) (i) a member with at least 5 years of membership service who is covered by 19-6-710 shall pay the actuarial cost of the member's active or reserve military service credit based on the system's most recent actuarial valuation;

(ii) a member with at least 10 years of membership service who is covered by [section 1] shall pay the actuarial cost of the member's active or reserve military service credit based on the system's most recent actuarial valuation."

Section 13. Section 19-6-803, MCA, is amended to read:

"19-6-803. Application to purchase law enforcement service performed in another state. (1) (a) Subject to subsection (1)(b) and 19-6-805, a member ~~with at least 5 years of membership service~~ may, at any time before retirement, file a written application with the board to purchase 1 year of out-of-state law enforcement employment for each year of service credit, unless the member is eligible to receive a retirement benefit in another system or plan for that same service.

(b) A member must have at least the following years of membership service to apply to purchase service credit under this section:

(i) for a member hired before July 1, 2013, 5 years; and

(ii) for a member hired on or after July 1, 2013, 10 years.

(2) To purchase this service credit, a member shall pay the actuarial cost of the service credit in the retirement system, as determined by the board, based on:

(a) the member's compensation for the 12 months immediately preceding the date of the member's election to purchase the service credit under the retirement system; and

(b) the actuarial rate in effect at the time of purchase of service credit.

(3) Service credit purchased under this section may not be used to qualify a member to purchase military service credit under 19-6-801.

(4) Service credit purchased under this section may not be used in calculating a member's retirement benefit unless the last 5 years of service credit were earned under the retirement system. If, upon retirement, a member's purchased service credit may not be used in calculating the member's retirement benefit, the member must receive a refund of the amount paid by the member to purchase the service credit, plus regular interest on that amount."

Section 14. Section 19-6-804, MCA, is amended to read:

"19-6-804. Application to purchase additional service. (1) (a) Subject to subsection (1)(b) and 19-6-805, a member ~~with at least 5 years of membership service~~ may, at any time before retirement, file a written application with the board to purchase 1 year of additional service credit for each 5 years of membership service that the member has in the retirement system.

(b) A member must have at least the following years of membership service to apply to purchase additional service credit under this section:

(i) for a member hired before July 1, 2013, 5 years; and

(ii) for a member hired on or after July 1, 2013, 10 years.

(2) To purchase service credit under this section, a member shall pay the actuarial cost of the service credit, based on the system's most recent actuarial valuation as determined by the board.

(3) Service credit purchased under this section is not membership service and may not be used to qualify a member for retirement or in the calculation of an actuarial reduction in benefits for a member who is not eligible for service retirement."

Section 15. Section 44-1-504, MCA, is amended to read:

"44-1-504. Special revenue account to partially fund highway patrol officers' salaries. (1) There is an account in the state special revenue fund provided for in 17-2-102.

(2) The money in the account is for the department of justice to fund, pursuant to 2-18-303(5):

(a) the base salary and associated operating costs for highway patrol officer positions; and

(b) biennial salary increases for highway patrol officers.

(3) For the purposes of this section, the term "associated operating costs" does not include the state employer contribution provided for in 19-6-404."

Section 16. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 19, chapter 6, part 7, and the provisions of Title 19, chapter 6, part 7, apply to [section 1].

Section 17. Effective date. [This act] is effective July 1, 2013.

- END -

I hereby certify that the within bill,
HB 0336, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2013.

President of the Senate

Signed this _____ day
of _____, 2013.

HOUSE BILL NO. 336

INTRODUCED BY GIBSON, BRODEHL, DUDIK, FITZPATRICK, HOLLENBAUGH, JENT, LYNCH,
NOONAN, OLSON, RIPLEY, SESSO, S. LAVIN, M. BLASDEL, B. BENNETT

AN ACT GENERALLY REVISING THE HIGHWAY PATROL OFFICERS' RETIREMENT SYSTEM; DECREASING THE GUARANTEED ANNUAL BENEFIT ADJUSTMENT FOR NEW MEMBERS; REQUIRING NEW MEMBERS TO WAIT 3 YEARS BEFORE RECEIVING THE GUARANTEED ANNUAL BENEFIT ADJUSTMENT; INCREASING THE YEARS OF MEMBERSHIP SERVICE NEEDED FOR A NEW MEMBER TO PURCHASE SERVICE CREDIT AND TO RECEIVE A RETIREMENT BENEFIT; INCREASING EMPLOYEE CONTRIBUTIONS FOR EXISTING MEMBERS AND NEW HIRES; INCREASING THE STATE EMPLOYER CONTRIBUTION; INCREASING THE BENEFIT MULTIPLIER FOR ALL MEMBERS; RESTRICTING THE USES OF THE SPECIAL STATE REVENUE FUND TO FUND THE HIGHWAY PATROL OFFICERS' SALARIES; AMENDING SECTIONS 19-2-303, 19-6-301, 19-6-402, 19-6-404, 19-6-502, 19-6-503, 19-6-601, 19-6-707, 19-6-710, 19-6-711, 19-6-801, 19-6-803, AND 19-6-804, MCA; AND PROVIDING AN EFFECTIVE DATE.