

## 1 HOUSE BILL NO. 152

2 INTRODUCED BY D. GALLIK

3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PROVISIONS OF THE PUBLIC  
6 EMPLOYEES', JUDGES', HIGHWAY PATROL OFFICERS', SHERIFFS', GAME WARDENS' AND PEACE  
7 OFFICERS', MUNICIPAL POLICE OFFICERS', FIREFIGHTERS' UNIFIED, AND VOLUNTEER FIREFIGHTER'S  
8 COMPENSATION ACT RETIREMENT SYSTEMS; CLARIFYING DEFINITIONS AND TERMS; REVISING THE  
9 PUBLIC EMPLOYEES' RETIREMENT BOARD POWERS AND DUTIES PROVISIONS; REVISING INTERLOCAL  
10 AGREEMENTS; CLARIFYING SERVICE PURCHASE, PLAN MEMBERSHIP ELECTION, SURVIVORSHIP,  
11 FAMILY LAW ORDER, INCOME WITHHOLDING ORDER, ALTERNATE PAYEE, AND BENEFIT  
12 COMMENCEMENT PROVISIONS; CLARIFYING CERTAIN INTEREST PAYMENTS; REVISING CERTAIN  
13 SURVIVORSHIP BENEFITS; REVISING AND STANDARDIZING CERTAIN INTEREST, CONTRIBUTION, AND  
14 REPORTING PROVISIONS; CLARIFYING CATCHUP PROVISIONS AND NORMAL RETIREMENT AGE FOR  
15 THE DEFERRED COMPENSATION PROGRAM; REPEALING DUPLICATE SECTIONS; AMENDING SECTIONS  
16 2-18-1101, 5-2-304, 7-11-105, 19-2-303, 19-2-403, 19-2-406, 19-2-505, 19-2-506, 19-2-602,  
17 19-2-703, 19-2-704, 19-2-708, 19-2-801, 19-2-903, 19-2-907, 19-2-908, 19-2-909, 19-3-108,  
18 19-3-403, 19-3-412, 19-3-503, 19-3-505, 19-3-509, 19-3-510, 19-3-511, 19-3-512, 19-3-513,  
19 19-3-901, 19-3-904, 19-3-1002, 19-3-1005, 19-3-1007, 19-3-1008, 19-3-1015, 19-3-1103,  
20 19-3-1105, 19-3-1106, 19-3-1203, 19-3-1204, 19-3-1501, 19-5-101, 19-5-409, 19-5-501, 19-5-502,  
21 19-5-503, 19-5-601, 19-5-701, 19-5-801, 19-5-802, 19-6-101, 19-6-402, 19-6-403, 19-6-501,  
22 19-6-502, 19-6-505, 19-6-601, 19-6-612, 19-6-709, 19-6-801, 19-6-802, 19-6-803, 19-6-804,  
23 19-6-810, 19-6-901, 19-6-902, 19-6-903, 19-7-101, 19-7-301, 19-7-403, 19-7-501, 19-7-503,  
24 19-7-601, 19-7-801, 19-7-802, 19-7-803, 19-7-804, 19-7-810, 19-7-901, 19-7-1001, 19-7-1101,  
25 19-8-101, 19-8-302, 19-8-308, 19-8-502, 19-8-601, 19-8-603, 19-8-701, 19-8-712, 19-8-801,  
26 19-8-901, 19-8-902, 19-8-903, 19-8-904, 19-8-1001, 19-9-104, 19-9-301, 19-9-403, 19-9-405,  
27 19-9-411, 19-9-801, 19-9-1101, 19-9-1102, 19-13-301, 19-13-403, 19-13-404, 19-13-405,  
28 19-13-604, 19-13-701, 19-13-902, 19-13-903, 19-17-102, 19-17-104, 19-17-106, 19-17-202,  
29 19-17-401, 19-17-403, 19-17-404, 19-17-405, AND 19-17-407, MCA; REPEALING SECTIONS  
30 19-2-1101 AND 19-2-1102, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

1

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

3

4 **Section 1.** Section 2-18-1101, MCA, is amended to read:5 **"2-18-1101. Definitions.** As used in this part, the following definitions apply:6 (1) "Agency head" means a director, commissioner, or constitutional officer in charge of an  
7 executive, legislative, or judicial branch agency or an agency of the Montana university system. The term  
8 includes the president or other person in charge of a public retirement board or a unit of the Montana  
9 university system.

10 (2) "Department" means the department of administration provided for in 2-15-1001.

11 (3) "Employee" means an employee of the executive, legislative, or judicial branch or the Montana  
12 university system.13 (4) "Group or team of employees" means a group, team, or work unit of employees working  
14 cooperatively."

15

16 **Section 2.** Section 5-2-304, MCA, is amended to read:17 **"5-2-304. Continued participation in public retirement systems.** (1) The purpose of this section  
18 is to provide a means whereby persons serving in the Montana legislature may continue their participation  
19 in public retirement systems governed by state law. This section is not intended to provide duplicate credit  
20 for the same service in two retirement systems supported wholly or in part by public funds. This section  
21 does not affect contribution rates or benefit payments specifically provided for in the laws governing the  
22 operation of individual retirement systems.23 (2) A person who is engaged in official duties as a member of the Montana legislature and who  
24 is a member of a public retirement system governed by state law may, but is not required to, continue the  
25 person's participation in that public retirement system while engaged in official duties as a legislator. ~~A~~  
26 ~~legislator shall make an irrevocable election within 180 days of taking office whether to~~ To continue  
27 participation in the public retirement system, a legislator shall, within 180 days of taking office and in a  
28 manner prescribed by the appropriate board, file an irrevocable written election with the teachers'  
29 retirement board or the public employees' retirement board. ~~A person who is a member of the Montana~~  
30 ~~legislature on July 1, 1999, has until January 1, 2000, to file a written application with the teachers' or~~

1 ~~public employees' retirement board that is the irrevocable election required by this section.~~

2 (3) A legislator who elects to continue participation as provided in subsection (2) shall continue  
3 the payments into the fund of the retirement system at the rate currently in effect in the system based  
4 on the legislator's monthly salary as a member of that system.

5 (4) The state contribution must be made by legislative appropriation. It must equal the appropriate  
6 employer contribution at the rate currently in effect in the system."

7

8 **Section 3.** Section 7-11-105, MCA, is amended to read:

9 **"7-11-105. Detailed contents of interlocal agreements.** The contract authorized by 7-11-104 shall  
10 must specify the following:

11 (1) its duration;

12 (2) the precise organization, composition, and nature of any separate legal entity created ~~thereby~~  
13 by the agreement;

14 (3) the purpose or purposes of ~~said~~ the interlocal contract;

15 (4) the manner of financing the joint or cooperative undertaking and establishing and maintaining  
16 a budget ~~therefor~~ for the entity;

17 (5) the permissible method or methods to be employed in accomplishing the partial or complete  
18 termination of the agreement and for disposing of property upon ~~such~~ the partial or complete termination;

19 (6) provision for an administrator or a joint board responsible for administering the joint or  
20 cooperative undertaking, including representation of the contracting parties on ~~said~~ the joint board;

21 (7) the manner of acquiring, holding, and disposing of real and personal property used in the joint  
22 or cooperative undertaking;

23 (8) the contracting party responsible for reports and payment of retirement system contributions  
24 pursuant to 19-2-506; and

25 (9) any other necessary and proper matters."

26

27 **Section 4.** Section 19-2-303, MCA, is amended to read:

28 **"19-2-303. (Temporary) Definitions.** Unless the context requires otherwise, for each of the  
29 retirement systems subject to this chapter, the following definitions apply:

30 (1) "Accumulated contributions" means the sum of all the regular and any additional contributions

1 made by a member in a system, together with the regular interest on the contributions.

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

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

8 (4) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the  
9 1971 Group Annuity Mortality Table, with ages set back 4 years and an interest rate of 8% compounded  
10 annually.

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

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

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

16 (8) "Annuity" means equal and fixed payments for life that are the actuarial equivalent of a  
17 lump-sum payment under a retirement system and as such are not benefits paid by a retirement system  
18 and are not subject to periodic or one-time increases.

19 (9) "Benefit" means the service or disability retirement or survivorship benefit payment provided  
20 by a retirement system.

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

22 (11) "Contingent annuitant" means a person designated to receive a continuing monthly benefit  
23 after the death of a retired member.

24 (12) "Credited service" or "service credit" means the periods of time for which the required  
25 contributions have been made to a retirement system and that are used to calculate service or disability  
26 retirement or survivorship benefits under a retirement system.

27 (13) "Department" means the department of administration.

28 (14) "Designated beneficiary" means the person designated by a member or payment recipient to  
29 receive any survivorship benefits or lump-sum payments upon the death of the member or payment  
30 recipient, including annuities derived from the benefits or payments.

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

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

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

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

13 (a) the position exists to perform the element;

14 (b) there are a limited number of employees to perform the element; or

15 (c) the element is highly specialized.

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

18 (20) "Inactive member" means a member who is not an active or retired member.

19 (21) "Internal Revenue Code" means the federal Internal Revenue Code of 1954 or 1986, as  
20 applicable to a retirement system, as that code provided on July 1, 1999.

21 (22) "Member" means any person with accumulated contributions and service credited with a  
22 retirement system or receiving a retirement benefit on account of the person's previous service credited  
23 in a retirement system.

24 (23) "Membership service" ~~or "years of service"~~ means the periods of service that are used to  
25 determine eligibility for retirement or other benefits.

26 (24) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost  
27 method required to fund accruing benefits for members of a retirement system during any year in the  
28 future. Normal cost does not include any portion of the supplemental costs of a retirement system.

29 (25) "Normal retirement age" means the age at which a member is eligible to immediately receive  
30 a retirement benefit based on the member's age, length of service, or both, as specified under the

1 member's retirement system, without disability and without an actuarial or similar reduction in the benefit.

2 ~~(26)~~ (26) "Pension" means benefit payments for life derived from contributions to a system made from  
3 state- or employer-controlled funds.

4 ~~(26)~~(27) "Pension trust fund" means a fund established to hold the contributions, income, and  
5 assets of a retirement system in public trust.

6 ~~(27)~~(28) "Regular contributions" means contributions required from members under a retirement  
7 system.

8 ~~(28)~~(29) "Regular interest" means interest at ~~the rate~~ rates set from time to time by the board.

9 ~~(29)~~(30) "Retirement" or "retired" means the status of a member who has been terminated from  
10 service for at least 30 days and has received and accepted a retirement benefit from a retirement system.

11 ~~(30)~~(31) "Retirement benefit" means the periodic benefit payable as a result of service, early, or  
12 disability retirement under a retirement system. An annuity is not a retirement benefit.

13 ~~(31)~~(32) "Retirement system" or "system" means one of the public employee retirement systems  
14 enumerated in 19-2-302.

15 ~~(32)~~(33) "Service" means employment of an employee in a position covered by a retirement  
16 system.

17 ~~(33)~~(34) "Statutory beneficiary" means the surviving spouse or dependent child or children of a  
18 member of the highway patrol officers', municipal police officers', or firefighters' unified retirement system  
19 who are statutorily designated to receive benefits upon the death of the member.

20 ~~(34)~~(35) "Supplemental cost" means an element of the total actuarial cost of a retirement system  
21 arising from benefits payable for service performed prior to the inception of the retirement system or prior  
22 to the date of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure to  
23 fund or otherwise recognize normal cost accruals or interest on supplemental costs. These costs are  
24 included in the unfunded actuarial liabilities of the retirement system.

25 ~~(35)~~(36) "Survivorship benefit" means payments for life to the statutory or designated beneficiary  
26 of a deceased member who died while in service under a retirement system.

27 ~~(36)~~(37) "Termination of employment" or "termination of service" means that the member has  
28 severed the employment relationship with the employer and has been paid all compensation due upon  
29 termination of employment, including but not limited to payment of accrued annual leave credits, as  
30 provided in 2-18-617, and payment of accrued sick leave credits, as provided in 2-18-618. For purposes

1 of this subsection, compensation as a result of legal action, court order, appeal, or settlement to which  
2 the board was not party is not a payment due upon termination.

3 ~~(37)~~(38) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a retirement  
4 system's actuarial liabilities at any given point in time over the value of its cash and investments on that  
5 same date.

6 ~~(38)~~(39) "Vested member" or "vested" means a member or the status of a member who has  
7 attained the minimum membership service requirements to be eligible for retirement benefits under a  
8 retirement system.

9 ~~(39)~~(40) "Written application" or "written election" means a written instrument, ~~specified~~  
10 prescribed by the board or required by law, properly ~~executed signed~~, and filed with the board, that  
11 contains all ~~the~~ required information ~~required by the board~~, including documentation that the board  
12 considers necessary.

13 **19-2-303. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier)**  
14 **Definitions.** Unless the context requires otherwise, for each of the retirement systems subject to this  
15 chapter, the following definitions apply:

16 (1) "Account balance" means all contributions, income, and other assets in a retirement account  
17 that have, pursuant to 19-3-2116, vested to a member of the defined contribution plan.

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

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

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

26 (5) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the  
27 1971 Group Annuity Mortality Table, with ages set back 4 years and an interest rate of 8% compounded  
28 annually.

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

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

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

4 (9) "Annuity" means:

5 (a) in the case of a defined benefit plan, equal and fixed payments for life that are the actuarial  
6 equivalent of a lump-sum payment under a retirement plan and as such are not benefits paid by a  
7 retirement plan and are not subject to periodic or one-time increases; or

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

10 (10) "Benefit" means:

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

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

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

16 (12) "Contingent annuitant" means a person designated to receive a continuing monthly benefit  
17 after the death of a retired member.

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

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

21 (15) "Credited service" or "service credit" means the periods of time for which the required  
22 contributions have been made to a retirement plan and that are used to calculate service or disability  
23 retirement or survivorship benefits under a defined benefit retirement plan.

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

26 (17) "Defined contribution retirement plan" or "defined contribution plan" means the plan within  
27 the public employees' retirement system established in 19-3-103 that is provided for in chapter 3, part  
28 21, of this title and that is not a defined benefit plan.

29 (18) "Department" means the department of administration.

30 (19) "Designated beneficiary" means the person designated by a member or payment recipient to



1 receive any survivorship benefits, lump-sum payments, or benefit from a retirement account upon the  
2 death of the member or payment recipient, including annuities derived from the benefits or payments.

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

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

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

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

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

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

20 (25) "Inactive member" means a member who is not an active or retired member.

21 (26) "Internal Revenue Code" means the federal Internal Revenue Code of 1954 or 1986, as  
22 applicable to a retirement system, as that code provided on July 1, 1999.

23 (27) "Member" means either:

24 (a) a person with accumulated contributions and service credited with a defined benefit retirement  
25 plan or receiving a retirement benefit on account of the person's previous service credited in a retirement  
26 system; or

27 (b) a person with a retirement account in the defined contribution plan.

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

30 (29) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost

1 method required to fund accruing benefits for members of a defined benefit retirement plan during any year  
2 in the future. Normal cost does not include any portion of the supplemental costs of a retirement plan.

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

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

8 (31)(32) "Pension trust fund" means a fund established to hold the contributions, income, and  
9 assets of a retirement system or plan in public trust.

10 (32)(33) "Plan choice rate" means the amount of the employer contribution as a percentage of  
11 payroll covered by the defined contribution plan members that is allocated to the public employees'  
12 retirement system's defined benefit plan pursuant to 19-3-2117 and that is adjusted by the board pursuant  
13 to 19-3-2121 to actuarially fund the unfunded liabilities and the normal cost rate changes in a defined  
14 benefit plan resulting from member selection of the defined contribution plan.

15 (33)(34) "Regular contributions" means contributions required from members under a retirement  
16 plan.

17 (34)(35) "Regular interest" means interest at ~~the rate~~ rates set from time to time by the board.

18 (35)(36) "Retirement" or "retired" means the status of a member who has been terminated from  
19 service for at least 30 days and has received and accepted a retirement benefit from a retirement plan.

20 (36)(37) "Retirement account" means an individual account within the defined contribution  
21 retirement plan for the deposit of employer and employee contributions and other assets for the exclusive  
22 benefit of a member of the defined contribution plan or the member's beneficiary.

23 (37)(38) "Retirement benefit" means:

24 (a) in the case of a defined benefit plan, the periodic benefit payable as a result of service, early,  
25 or disability retirement under a defined benefit plan of a retirement system. With respect to a defined  
26 benefit plan, the term does not mean an annuity.

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

28 (38)(39) "Retirement system" or "system" means one of the public employee retirement systems  
29 enumerated in 19-2-302.

30 (39)(40) "Service" means employment of an employee in a position covered by a retirement

1 system.

2 ~~(40)~~(41) "Statutory beneficiary" means the surviving spouse or dependent child or children of a  
3 member of the highway patrol officers', municipal police officers', or firefighters' unified retirement system  
4 who are statutorily designated to receive benefits upon the death of the member.

5 ~~(41)~~(42) "Supplemental cost" means an element of the total actuarial cost of a defined benefit  
6 retirement plan arising from benefits payable for service performed prior to the inception of the retirement  
7 plan or prior to the date of contribution rate increases, changes in actuarial assumptions, actuarial losses,  
8 or failure to fund or otherwise recognize normal cost accruals or interest on supplemental costs. These  
9 costs are included in the unfunded actuarial liabilities of the retirement plan.

10 ~~(42)~~(43) "Survivorship benefit" means payments for life to the statutory or designated beneficiary  
11 of a deceased member who died while in service under a defined benefit retirement plan.

12 ~~(43)~~(44) "Termination of employment" or "termination of service" means that the member has  
13 severed the employment relationship with the employer and has been paid all compensation due upon  
14 termination of employment, including but not limited to payment of accrued annual leave credits, as  
15 provided in 2-18-617, and payment of accrued sick leave credits, as provided in 2-18-618. For purposes  
16 of this subsection, compensation as a result of legal action, court order, appeal, or settlement to which  
17 the board was not party is not a payment due upon termination.

18 ~~(44)~~(45) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a defined  
19 benefit retirement plan's actuarial liabilities at any given point in time over the value of its cash and  
20 investments on that same date.

21 ~~(45)~~(46) "Vested member" or "vested" means:

22 (a) with respect to a defined benefit plan, a member or the status of a member who has attained  
23 the minimum membership service requirements to be eligible for retirement benefits under the retirement  
24 plan; or

25 (b) with respect to the defined contribution plan, a member or the status of a member who,  
26 pursuant to 19-3-2116, is entitled to employer contributions and income on those contributions in the  
27 member's retirement account.

28 ~~(46)~~(47) "Written application" or "written election" means a written instrument, ~~specified~~  
29 prescribed by the board or required by law, properly ~~executed signed~~, and filed with the board, that  
30 contains all the required information ~~required by the board~~, including documentation that the board

1 considers necessary."

2

3 **Section 5.** Section 19-2-403, MCA, is amended to read:

4 **"19-2-403. (Temporary) Powers and duties of board.** (1) The board shall administer the provisions  
5 of the chapters enumerated in 19-2-302.

6 (2) The board may establish rules that it considers proper for the administration and operation of  
7 the retirement systems and enforcement of the chapters under which each retirement system is  
8 established.

9 (3) The board shall establish uniform rules that are necessary to determine service credit for  
10 fractional years of service.

11 (4) The board shall determine who are employees within the meaning of each retirement system.  
12 The board is the sole authority for determining the conditions under which persons may become members  
13 of and receive benefits under the retirement systems.

14 (5) The board shall determine and may modify retirement benefits under the retirement systems.  
15 Benefits may be paid only if the board decides, in its discretion, that the applicant is, under the provisions  
16 of the appropriate retirement system, entitled to the benefits.

17 (6) In matters of board discretion under the systems, the board shall treat all persons in similar  
18 circumstances in a uniform and nondiscriminatory manner.

19 (7) The board shall maintain records and accounts it determines necessary for the administration  
20 of the retirement systems.

21 (8) Upon the basis of the findings of the actuary pursuant to 19-2-405, the board shall adopt  
22 actuarial rates and rates of regular interest it determines appropriate for the administration of the  
23 retirement systems.

24 (9) The board shall review the sufficiency of benefits paid by the retirement system and  
25 recommend to the legislature those changes in benefits that may be necessary for retired members and  
26 their beneficiaries to maintain a stable standard of living.

27 (10) The board may implement third-party mailings under the provisions of 2-6-109. If third-party  
28 mailings are implemented, the board shall adopt rules governing means of implementation, including the  
29 specification of eligible third parties, appropriate materials, and applicable fees and procedures. Fees  
30 generated by third-party mailings must be deposited in an account in the state special revenue fund and

1 must be appropriated to the board for the benefit of participants of retirement systems administered by  
2 the board.

3 (11) In discharging duties, the board, a member of the board, or an authorized representative of  
4 the board may conduct hearings, administer oaths and affirmations, take depositions, certify to official acts  
5 and records, and issue subpoenas to compel the attendance of witnesses and the production of books,  
6 papers, correspondence, memoranda, and other records. Subpoenas must be issued and enforced pursuant  
7 to 2-4-104 of the Montana Administrative Procedure Act.

8 (12) The board may by rule or otherwise delegate to the board's executive director or any other  
9 staff member any of the powers or duties conferred by law upon the board except as otherwise provided  
10 by law and except for the adoption of rules and the issuance of final orders after hearings held pursuant  
11 to subsection (11) or the contested case procedure of the Montana Administrative Procedure Act.

12 **19-2-403. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) Powers**  
13 **and duties of board.** (1) The board shall administer the provisions of the chapters enumerated in 19-2-302.

14 (2) The board may establish rules that it considers proper for the administration and operation of  
15 the retirement systems and enforcement of the chapters under which each retirement system is  
16 established.

17 (3) The board shall establish uniform rules that are necessary to determine service credit for  
18 fractional years of service.

19 (4) The board shall determine who are employees within the meaning of each retirement system.  
20 The board is the sole authority for determining the conditions under which persons may become members  
21 of and receive benefits under the retirement systems.

22 (5) The board shall determine and may modify retirement benefits under the retirement systems.  
23 Benefits may be paid only if the board decides, in its discretion, that the applicant is, under the provisions  
24 of the appropriate retirement system, entitled to the benefits.

25 (6) In matters of board discretion under the systems, the board shall treat all persons in similar  
26 circumstances in a uniform and nondiscriminatory manner.

27 (7) The board shall maintain records and accounts it determines necessary for the administration  
28 of the retirement systems.

29 (8) Upon the basis of the findings of the actuary pursuant to 19-2-405, the board shall adopt  
30 actuarial rates and rates of regular interest it determines appropriate for the administration of the

1 retirement systems.

2 (9) The board shall review the sufficiency of benefits paid by the retirement system or plan and  
3 recommend to the legislature those changes in benefits in a defined benefit plan or in contributions under  
4 the defined contribution plan that may be necessary for members and their beneficiaries to maintain a  
5 stable standard of living.

6 (10) The board may implement third-party mailings under the provisions of 2-6-109. If third-party  
7 mailings are implemented, the board shall adopt rules governing means of implementation, including the  
8 specification of eligible third parties, appropriate materials, and applicable fees and procedures. Fees  
9 generated by third-party mailings must be deposited in an account in the state special revenue fund and  
10 must be appropriated to the board for the benefit of participants of retirement systems or plans  
11 administered by the board.

12 (11) In discharging duties, the board, a member of the board, or an authorized representative of  
13 the board may conduct hearings, administer oaths and affirmations, take depositions, certify to official acts  
14 and records, and issue subpoenas to compel the attendance of witnesses and the production of books,  
15 papers, correspondence, memoranda, and other records. Subpoenas must be issued and enforced pursuant  
16 to 2-4-104 of the Montana Administrative Procedure Act.

17 (12) The board may by rule or otherwise delegate to the board's executive director or any other  
18 staff member any of the powers or duties conferred by law upon the board except as otherwise provided  
19 by law and except for the adoption of rules and the issuance of final orders after hearings held pursuant  
20 to subsection (11) or the contested case procedure of the Montana Administrative Procedure Act.

21 (13) The board shall perform other duties and may exercise the powers concerning the defined  
22 contribution plan for plan members as provided in chapter 3, part 21, of this title."  
23

24 **Section 6.** Section 19-2-406, MCA, is amended to read:

25 **"19-2-406. (Temporary) Determination of disability by board -- compliance with federal law --**  
26 **conversion to service retirement benefit -- rules.** (1) The board shall determine whether a member has  
27 become disabled. In the discharge of its duty regarding determinations, the board, any member of the  
28 board, or any authorized representative of the board may order medical examinations, conduct hearings,  
29 administer oaths and affirmations, take depositions, certify to official acts and records, and issue  
30 subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence,

1 memoranda, and other records considered necessary as evidence in connection with a claim for disability  
 2 retirement. Subpoenas must be issued and enforced pursuant to 2-4-104 of the Montana Administrative  
 3 Procedure Act.

4 (2) The board shall adopt rules requiring employers to identify and explain the essential elements  
 5 of a member's position, any accommodations that were or can be made in compliance with the Americans  
 6 With Disabilities Act of 1990 (42 U.S.C. 12101, et seq.), and the effectiveness of the accommodations.

7 (3) The board shall retain medical personnel to advise it in assessing the nature and extent of  
 8 disabling conditions while reviewing claims for disability retirement.

9 (4) The disability retirement benefit paid to a member must be converted to a service retirement  
 10 benefit, without recalculation of the monthly benefit amount, when the member has attained ~~the minimum~~  
 11 ~~age required for~~ normal service retirement age. The board shall notify the member in writing as to the  
 12 change in status.

13 **19-2-406. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier)**  
 14 **Determination of disability by board -- compliance with federal law -- conversion to service retirement**  
 15 **benefit -- rules.** (1) The board shall determine whether a member has become disabled. In the discharge  
 16 of its duty regarding determinations, the board, any member of the board, or any authorized representative  
 17 of the board may order medical examinations, conduct hearings, administer oaths and affirmations, take  
 18 depositions, certify to official acts and records, and issue subpoenas to compel the attendance of  
 19 witnesses and the production of books, papers, correspondence, memoranda, and other records considered  
 20 necessary as evidence in connection with a claim for disability retirement. Subpoenas must be issued and  
 21 enforced pursuant to 2-4-104 of the Montana Administrative Procedure Act.

22 (2) The board shall adopt rules requiring employers to identify and explain the essential elements  
 23 of a member's position, any accommodations that were or can be made in compliance with the Americans  
 24 With Disabilities Act of 1990 (42 U.S.C. 12101, et seq.), and the effectiveness of the accommodations.

25 (3) The board shall retain medical personnel to advise it in assessing the nature and extent of  
 26 disabling conditions while reviewing claims for disability retirement.

27 (4) The disability retirement benefit paid to a member of a defined benefit plan must be converted  
 28 to a service retirement benefit, without recalculation of the monthly benefit amount, when the member  
 29 has attained ~~the minimum age required for~~ normal service retirement age. The board shall notify the  
 30 member in writing as to the change in status.

1 (5) This section does not apply to members of the defined contribution plan."  
2

3 **Section 7.** Section 19-2-505, MCA, is amended to read:

4 **"19-2-505. (Temporary) Restrictions on use of funds.** (1) Except as provided in this section, a  
5 member or an employee of the board or the board of investments may not:

6 (a) have any interest, direct or indirect, in the making of any investment or in the gains or profits  
7 accruing from the pension trust funds;

8 (b) directly or indirectly, for the member or employee or as an agent or partner of others, borrow  
9 from the pension trust funds or deposits;

10 (c) in any manner use the pension trust funds except to make current and necessary payments  
11 that are authorized by the board;

12 (d) become an endorser or surety as to or in any manner an obligor for investments for the pension  
13 trust funds; or

14 (e) engage in a transaction prohibited by section 503(b) of the Internal Revenue Code.

15 (2) The assets of the retirement systems may not be used for or diverted to any purpose other  
16 than for the exclusive benefit of the members and their beneficiaries and for paying the reasonable  
17 administrative expenses of the retirement systems administered by the board.

18 (3) The assets of the retirement systems remain in trust until a warrant has been negotiated or  
19 an electronic funds transfer has been deposited in accordance with law.

20 (4) Retirement benefits not claimed within 5 years after the member's death are forfeited and  
21 revert to the retirement system trust fund.

22 **19-2-505. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier)**

23 **Restrictions on use of funds.** (1) Except as provided in this section, a member or an employee of the board  
24 or the board of investments may not:

25 (a) have any interest, direct or indirect, in the making of any investment or in the gains or profits  
26 accruing from the pension trust funds;

27 (b) directly or indirectly, for the member or employee or as an agent or partner of others, borrow  
28 from the pension trust funds or deposits;

29 (c) in any manner use the pension trust funds except to make current and necessary payments  
30 that are authorized by the board;



1 (d) become an endorser or surety as to or in any manner an obligor for investments for the pension  
2 trust funds; or

3 (e) engage in a transaction prohibited by section 503(b) of the Internal Revenue Code.

4 (2) The assets of the retirement systems, including the assets of retirement accounts, may not  
5 be used for or diverted to any purpose other than for the exclusive benefit of the members and their  
6 beneficiaries and for paying the reasonable administrative expenses of the retirement systems administered  
7 by the board.

8 (3) The assets of the retirement systems remain in trust until a warrant has been negotiated or  
9 an electronic funds transfer has been deposited in accordance with law.

10 (4) Retirement benefits not claimed within 5 years after the member's death are forfeited and  
11 revert to the retirement system trust fund.

12 ~~(4)~~(5) This section does not prevent the administration of an investment alternative within the  
13 defined contribution plan to the same extent that all other investment alternatives within the defined  
14 contribution plan are managed."

15

16 **Section 8.** Section 19-2-506, MCA, is amended to read:

17 **"19-2-506. Payment of contributions by employers -- accompanying reports -- penalty.** (1) ~~At a~~  
18 ~~time prescribed by the rules of the board, each employer~~ The board shall prescribe by rule the procedure  
19 for payment of retirement contributions for the retirement systems administered by the board. Each  
20 employer shall pick up the employee contributions and remit to the board all the employer and employee  
21 contributions required of the employer and its employees under by the member's retirement systems  
22 subject to this chapter on the basis of covered compensation paid during the previous pay period system.

23 (2) The board may collect payments delinquent under subsection (1) with an interest penalty at  
24 the rate of 9% a year or \$10 a day, whichever is greater. The board may, in its discretion, waive the  
25 penalty. The collection may be made by either:

26 (a) an action in a court of competent jurisdiction against the employer; or

27 (b) deductions, at the request of the board, from any other money payable to the employer by any  
28 agency or fund of the state.

29 (3) ~~Employers shall submit~~ The board shall prescribe by rule the procedure for submitting employer  
30 reports to the board, as the board requires by rule, of compensation paid to both member and nonmember

1 ~~employees. The reports must include data about member and nonmember employees who work for the~~  
 2 ~~employer. The data required must include items such as compensation paid, hourly rates, changes in pay~~  
 3 ~~status, current home addresses, and any other data concerning employees that the board needs to~~  
 4 ~~administer the specific retirement system or plan. The board shall establish the method of reporting, the~~  
 5 ~~reporting period, and the frequency of reports to meet the demands of the relevant retirement system or~~  
 6 ~~plan.~~

7 ~~(4) The chief administrative officer of each employer shall furnish monthly reports to the board~~  
 8 ~~showing any changes in status during the preceding month of the employer's members resulting from~~  
 9 ~~transfer, promotion, leave of absence, resignation, reinstatement, dismissal, or death. The chief~~  
 10 ~~administrative officer~~ Each employer shall furnish additional information concerning the members that the  
 11 board may require in the administration of the retirement systems, including the services of the employer's  
 12 office and departments that the board may request in connection with claims by members for benefits or  
 13 service under the a retirement systems system.

14 (5) The board, from time to time, may send materials to an employer for redistribution to  
 15 employees. To facilitate distribution, each employer shall provide the board with a point of contact  
 16 responsible for distributing the materials."

17

18 **Section 9.** Section 19-2-602, MCA, is amended to read:

19 **"19-2-602. Refund of member's contributions on termination of service.** (1) Except as provided  
 20 in this section, any member whose service has been discontinued, other than by death or retirement, must  
 21 be paid the member's accumulated contributions ~~on~~ upon the filing of a written application by the member  
 22 and board approval. Prior to termination of service, a member may not receive a refund of any portion of  
 23 the member's accumulated contributions.

24 (2) A nonvested member who terminates from service with accumulated contributions of less than  
 25 \$200 must be paid the accumulated contributions in a lump sum as soon as administratively feasible after  
 26 termination without a written application ~~from~~ being filed by the member.

27 (3) A nonvested member who terminates from service with accumulated contributions of \$200  
 28 to \$5,000 must be paid the accumulated contributions in a lump sum as soon as administratively feasible  
 29 after termination, unless a written application is ~~made~~ filed pursuant to subsection (4).

30 (4) Upon the filing of a written application ~~of~~ by an alternate payee eligible to receive a single

1 ~~distribution of \$200 or more under 19-2-907 or 19-2-909 or a terminating member with~~ eligible to receive  
 2 a refund of \$200 or more of accumulated contributions, the board shall make a direct rollover distribution  
 3 as allowed under Internal Revenue Code section 401(a)(31) of the eligible portion of a refund of the  
 4 ~~member's accumulated contributions.~~ The direct rollover distribution must be paid directly to an eligible  
 5 retirement plan allowed under applicable federal law. ~~The terminating member shall designate the applicant~~  
 6 is responsible for designating an eligible retirement plan on forms provided by the board. ~~Amounts of the~~  
 7 ~~member's accumulated contributions that are~~ The portion of the account not eligible for direct rollover  
 8 distribution must be paid ~~to the terminating member.~~ ~~The terminating member is responsible to correctly~~  
 9 ~~designate an eligible retirement plan to receive the direct rollover distribution~~ directly to the recipient."

10

11 **Section 10.** Section 19-2-703, MCA, is amended to read:

12 **"19-2-703. No duplication of benefits for same period of service.** ~~(1) A period of service of the~~  
 13 ~~member may not be credited~~ receive service credit or membership service in more than one retirement  
 14 system ~~enumerated in 19-2-302, plan, or program under Title 19 for purposes of calculation of retirement~~  
 15 ~~benefits~~ the same period of service.

16 (2) A member may not receive service credit or membership service in more than one retirement  
 17 system, plan, or program in Title 19 for the same period of military service."

18

19 **Section 11.** Section 19-2-704, MCA, is amended to read:

20 **"19-2-704. Purchasing service credits allowed -- payroll deduction.** (1) Subject to the rules  
 21 promulgated by the board, an eligible member may elect to contribute amounts in addition to the  
 22 mandatory employee contributions required by the member's retirement system ~~in which the member~~  
 23 ~~participates for the purpose of purchasing~~ to purchase service credits as provided by the statutes  
 24 governing the retirement system.

25 (2) Subject to any statutory provision establishing stricter limitations, only active or vested inactive  
 26 members are eligible to purchase, ~~qualify,~~ or transfer service credits, membership service, or contributions.

27 (3) A member who wishes to redeposit amounts withdrawn under 19-2-602 or who is eligible to  
 28 purchase service as provided by the statutes governing the retirement system to which the member  
 29 belongs may elect to make a lump-sum payment, installment payments, or a combination of a lump-sum  
 30 payment and installment payments.

1 (4) Installment payments must be paid directly to the board, unless the member ~~makes~~ elects to  
2 make payments by irrevocable payroll deduction. The minimum installment period for payments made  
3 directly to the board is 3 months, and the maximum installment period is 5 years.

4 (5) To elect installment payments by irrevocable payroll deduction, the member shall file with the  
5 board and the member's employer ~~a binding,~~ an irrevocable, written application and authorization for  
6 payroll deductions. The application and authorization:

7 (a) must be ~~executed~~ signed by the member and the member's employer;

8 (b) must specify the dollar amount of each deduction and the number of deductions to be made,  
9 subject to any maximum amounts or duration established by state or federal law;

10 (c) must provide that the deductions are to be made over a period of time of no less than 3  
11 months and no more than 5 years in duration;

12 (d) may not give the member the option of receiving the deduction amounts directly instead of  
13 having them paid by the employer to the board; and

14 (e) must specify that the contributions being picked up, although designated as employee  
15 contributions, are being paid by the employer directly to the board in lieu of contributions paid directly by  
16 the employee.

17 (6) If the board notifies the employer that a proper written application and authorization has been  
18 ~~received by~~ filed with the board, the employer shall initiate the payroll deduction as follows:

19 (a) An employer shall pick up the member's elective contributions made pursuant to a payroll  
20 deduction authorization. The contributions picked up by the employer must be paid from the same source  
21 as is used to pay compensation to the member and must be included as part of the member's earned  
22 compensation before the deduction is made.

23 (b) Employee contributions, even though designated as employee contributions for state law  
24 purposes, are paid by the member's employer in lieu of contributions paid directly by the member to the  
25 board.

26 (c) The member may not choose to receive the contributed amounts directly instead of having  
27 them paid by the employer to the board.

28 (d) The effective date of the employer pickup and payment pursuant to this section is the date on  
29 which the employee contribution is first deducted from the employee's compensation. However, the  
30 effective date may not be prior to the date that the member properly completes the written application and

1 authorization for payroll deductions and files it with the board. The pickup may not apply to any  
 2 contributions made before the effective date or to any contributions related to compensation earned for  
 3 services rendered before the effective date.

4 (e) ~~A contract for installment~~ Installment payments initiated ~~before~~ by contract prior to July 1,  
 5 1999, may be ~~made~~ paid by payroll deduction only if the member ~~executes~~ files a written application and  
 6 authorization for payroll deductions pursuant to this section. If the member does not ~~execute~~ file a written  
 7 application and authorization for payroll deductions pursuant to this section, the installment contract  
 8 payments agreed to by the member must be paid by the member directly to the board.

9 (f) A member may ~~make~~ file more than one ~~binding~~, irrevocable payroll deduction agreement and  
 10 authorization as long as a subsequent deduction authorization does not amend a previous ~~binding~~,  
 11 irrevocable authorization. A member may not prepay an amount under ~~a binding~~, an irrevocable payroll  
 12 deduction.

13 (7) If a member terminates service or dies before completing all payments required by a payroll  
 14 deduction authorization ~~made~~ filed pursuant to this section, the deduction authorization expires and the  
 15 board shall prorate the service credit based on the amount paid as of the date of termination unless further  
 16 payment is made as provided in this subsection. In the case of a termination, the member may make a  
 17 lump-sum payment for the balance of the service subject to the limitations of section 415 of the Internal  
 18 Revenue Code. In the case of death of the member, the payment may be made from the member's estate  
 19 subject to the limitations of section 415 of the Internal Revenue Code."

20

21 **Section 12.** Section 19-2-708, MCA, is amended to read:

22 **"19-2-708. Rollover of contributions.** (1) A member who ~~wishes~~ elects to and is eligible to ~~qualify~~  
 23 purchase service from another retirement system or plan into a retirement system provided for in 19-2-302  
 24 may, prior to retirement, ~~make~~ file a written application ~~to~~ with the board to roll over, in accordance with  
 25 the requirements of this part, to the retirement system to which the member belongs all or a portion of  
 26 the member's account with the other eligible retirement system or plan. The total amount of the rollover  
 27 to the retirement system may not exceed the amount of service that the member is allowed to purchase  
 28 as a member of that system. The rollover must be completed prior to the member's retirement.

29 (2) The board shall accept a direct rollover of eligible distributions from another eligible retirement  
 30 plan as provided in subsection (1) only to the extent permitted by section 401(a)(31) of the Internal

1 Revenue Code."

2

3 **Section 13.** Section 19-2-801, MCA, is amended to read:

4 **"19-2-801. Designation of beneficiary.** (1) In the absence of any statutory beneficiaries,  
5 designated beneficiaries are the natural persons, charitable organizations, or trusts for the benefit of natural  
6 living persons that the member or payment recipient designates on the membership card or other form  
7 provided by the board. Unless otherwise provided by statute, a member or payment recipient may revoke  
8 the designation and name different designated beneficiaries by filing with the board a new membership  
9 card or other form provided by the board.

10 (2) A statutory or designated beneficiary who renounces an interest in the payment rights of a  
11 member or payment recipient will be considered, with respect to that interest, as having predeceased the  
12 member or payment recipient."

13

14 **Section 14.** Section 19-2-903, MCA, is amended to read:

15 **"19-2-903. Adjustment of errors in payments.** (1) ~~If more or less than the correct amount of a~~  
16 ~~contribution required by a retirement system subject to this chapter is or has been paid, proper adjustment~~  
17 ~~must be made in connection with the subsequent payments or the adjustments may be made by direct~~  
18 ~~cash payments between the member, state, or contracting employer in connection with whom the error~~  
19 ~~was made and the board~~ payment is incorrect, the board may reject the payment or accept the payment  
20 and approve any of the following methods to collect the correct amount:

21 (a) adjustment of subsequent payments from a member or an employer;

22 (b) installment payments or a lump-sum payment from an employer; or

23 (c) a lump-sum payment or a rollover from a member.

24 (2) If any fraudulent change or any inadvertent mistake in records results in any member, survivor,  
25 or beneficiary receiving more or less than entitled to, then on the discovery of the error, the board shall  
26 correct the error and adjust the payments to the member, survivor, or beneficiary in an equitable manner."

27

28 **Section 15.** Section 19-2-907, MCA, is amended to read:

29 **"19-2-907. Alternate payees -- family law orders -- rulemaking.** (1) A participant in a retirement  
30 system may have the participant's rights modified or recognized by a family law order.

1 (2) For purposes of this section:

2 (a) "family law order" means a judgment, decree, or order of a court of competent jurisdiction  
3 under Title 40 concerning child support, parental support, spousal maintenance, or marital property rights  
4 that includes a transfer of all or a portion of a participant's payment rights in a retirement system to an  
5 alternate payee in compliance with this section; and

6 (b) "participant" means a member or an actual or potential beneficiary, survivor, or contingent  
7 annuitant of a retirement system designated pursuant to Title 19, chapter 3, 5, 6, 7, 8, 9, 13, or 17.

8 (3) A family law order must identify an alternate payee by full name, current address, and social  
9 security number. An alternate payee's rights and interests granted in compliance with this section are not  
10 subject to assignment, execution, garnishment, attachment, or other process. An alternate payee's rights  
11 or interests may be modified only by a family law order amending the family law order that established the  
12 right or interest.

13 (4) A family law order may not require:

14 (a) a type or form of benefit, option, or payment not available to the affected participant under  
15 the appropriate retirement system or plan; or

16 (b) an amount or duration of payment greater than that available to a participant under the  
17 appropriate retirement system.

18 (5) In a defined benefit plan, a family law order may only provide for payment to an alternate  
19 payee as follows:

20 (a) Service retirement benefit payments or ~~withdrawals of member contributions~~ refunds may be  
21 apportioned by directing payment of a percentage of the amount payable or payment of a fixed amount  
22 of no more than the amount payable to the participant.

23 (b) The maximum amount of disability or survivorship benefits that may be apportioned to  
24 alternate payees is the monthly benefit amount that would have been payable on the date of termination  
25 of service if the member had retired without disability or death. Conversion of a disability retirement to a  
26 service retirement pursuant to 19-2-406(4), 19-3-1015(2), 19-6-612(2), or 19-8-712(2) does not increase  
27 the maximum monthly amount that may be apportioned to an alternate payee.

28 (c) Retirement benefit adjustments for which a participant is eligible after retirement may be  
29 apportioned only if existing benefit payments are apportioned. The adjustments must be apportioned in  
30 the same ratio as existing benefit payments.

1 (d) Payments must be limited to the life of the appropriate participant. The duration of payments  
2 to an alternate payee may be further limited only to a specified maximum time, the life of the alternate  
3 payee, or the life of a specified participant. Payments to an alternate payee may be limited to a specific  
4 amount each month if the number of payments is specified. The alternate payee's rights and interests  
5 survive the alternate payee's death and may be transferred by inheritance.

6 (e) The participant may be required to choose a specified form of benefit payment or designate  
7 a beneficiary or contingent annuitant if the retirement system or plan allows for that option.

8 (6) The board may assess a participant or an alternate payee for all costs of reviewing and  
9 administering a family law order, including reasonable attorney fees. The board may adopt rules to  
10 implement this section.

11 (7) Each family law order establishing a final obligation concerning payments by the retirement  
12 system must contain a statement that the order is subject to review and approval by the board.

13 (8) The board shall adopt rules to provide for the application of a family law order within the  
14 defined contribution plan."

15

16 **Section 16.** Section 19-2-908, MCA, is amended to read:

17 **"19-2-908. Time of commencement of benefit -- rulemaking.** (1) (a) The board shall grant a benefit  
18 to any member, or the member's statutory or designated beneficiary, who has fulfilled all eligibility  
19 requirements, terminated covered service, and filed the appropriate written application with the board.  
20 However, the board may, on its own accord and without a written application, begin benefit payments to  
21 a member or beneficiary in order to comply with section 401(a)(9) of the Internal Revenue Code.

22 (b) A member may apply for retirement benefits before terminating covered service, but  
23 commencement of the benefits must be as provided in this section.

24 (2) (a) Except as provided in subsection (2)(b), the service retirement benefit may commence on  
25 the first day of the month following the eligible member's last day of membership service or, if requested  
26 by the inactive member in writing, on the first day of a later month following ~~receipt~~ filing of the written  
27 application.

28 (b) If an elected official's term of office expires before the 15th day of the month, the official may  
29 elect that service retirement benefits from a defined benefit plan commence on the first day of the month  
30 following the official's last full month in office. An official electing this option shall file a written application



1 with the board. An official electing this option may not earn membership service, service credit, or  
2 compensation for purposes of calculating ~~final~~ highest average ~~salary~~ compensation or final average  
3 compensation, as defined under the provisions of the appropriate retirement system, in the partial month  
4 ending the official's term, and compensation earned in that partial month is not subject to employer or  
5 employee contributions.

6 (3) The disability retirement benefit payable to a member must commence on the day following  
7 the member's termination from service.

8 (4) Monthly survivorship benefits from a defined benefit plan must commence on the day following  
9 the death of the member.

10 (5) Estimated and finalized benefit payments must be issued as provided in rules adopted by the  
11 board.

12 (6) With respect to the defined contribution plan, the board shall adopt rules regarding the  
13 commencement of benefits that are consistent with applicable provisions of the Internal Revenue Code and  
14 its implementing regulations."

15

16 **Section 17.** Section 19-2-909, MCA, is amended to read:

17 **"19-2-909. Execution or withholding for support obligation -- rulemaking.** (1) Benefits in the  
18 retirement systems or plans provided for in chapters 3, 5 through 9, 13, and 17 are subject to execution  
19 and income withholding for the payment of a participant's support obligation.

20 (2) For purposes of this section, the following definitions apply:

21 (a) "Execution" means a warrant for distraint issued or a writ of execution obtained by the  
22 department of public health and human services when providing support enforcement services under Title  
23 IV-D of the Social Security Act.

24 (b) "Income withholding" means an income-withholding order issued under the provisions of Title  
25 40, chapter 5, part 3 or 4, or an income-withholding order issued in another state as provided in 40-5-157.

26 (c) "Participant" means a member or an actual or potential beneficiary, survivor, or contingent  
27 annuitant of a retirement system or plan designated pursuant to Title 19, chapter 3, 5, 6, 7, 8, 9, 13, or  
28 17.

29 (d) "Support obligation" has the meaning provided in 40-5-403 for a support order.

30 (3) The execution or income-withholding order may not require:

1 (a) a type or form of benefit, option, or payment not available to the affected participant under  
2 the appropriate retirement system or plan; or

3 (b) an amount or duration of payment greater than that available to a participant under the  
4 appropriate retirement system or plan.

5 (4) An execution or income-withholding order applied to a defined benefit retirement plan may  
6 provide for payment only as follows:

7 (a) Service retirement benefit payments or ~~withdrawals of member contributions~~ refunds may be  
8 apportioned by directing payment of a percentage of the amount payable or payment of a fixed amount  
9 of no more than the amount payable to the participant.

10 (b) The maximum amount of disability or survivorship benefits that may be apportioned and paid  
11 under this section is the monthly benefit amount that would have been payable on the date of termination  
12 of service if the member had retired without disability or death.

13 (c) Retirement benefit adjustments for which a participant is eligible after retirement may be  
14 apportioned only if existing benefit payments are apportioned. The adjustments must be apportioned in  
15 the same ratio as existing benefit payments.

16 (d) Payments must be limited to the life of the appropriate participant. The duration of payments  
17 under this section may be further limited only to a specified maximum time or the life of a specified  
18 participant. Payments may also be limited to a specific amount each month if the number of payments is  
19 specified.

20 (5) The board shall adopt rules to provide for the application of an execution or income-withholding  
21 order within the defined contribution plan."  
22

23 **Section 18.** Section 19-3-108, MCA, is amended to read:

24 **"19-3-108. (Temporary) Definitions.** Unless the context requires otherwise, as used in this  
25 chapter, the following definitions apply:

26 (1) "Compensation" means remuneration paid out of funds controlled by an employer before any  
27 pretax deductions allowed by state or federal law are made. Compensation does not include the payments  
28 or contributions made in lieu of wages for an individual subject to 19-3-403(4)(a).

29 (2) "Contracting employer" means any political subdivision or governmental entity that has  
30 contracted to come into the system under this chapter.

1 (3) "Employer" means the state of Montana, its university system or any of the colleges, schools,  
2 components, or units of the university system for the purposes of this chapter, or any contracting  
3 employer, except that a nonprofit mental health corporation established pursuant to 53-21-204 may not  
4 be an employer with regard to employees hired after June 30, 1999.

5 (4) "Employer contributions" means payments to the pension trust fund pursuant to 19-3-316  
6 from appropriations of the state of Montana and from contracting employers.

7 (5) ~~"Final "~~"Highest average salary compensation" means a member's highest average monthly  
8 compensation during any 36 consecutive months of membership service. Lump-sum payments for  
9 severance pay, sick leave, and annual leave paid to the member upon termination of employment may be  
10 used in the calculation of a retirement benefit only to the extent that they are used to replace, on a  
11 month-for-month basis, the regular compensation for a month or months included in the calculation of the  
12 ~~final highest~~ average salary compensation. A lump-sum payment may not be added to a single month's  
13 compensation.

14 **19-3-108. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier)**  
15 **Definitions.** Unless the context requires otherwise, as used in this chapter, the following definitions apply:

16 (1) "Compensation" means remuneration paid out of funds controlled by an employer before any  
17 pretax deductions allowed by state or federal law are made. Compensation does not include the payments  
18 or contributions made in lieu of wages for an individual subject to 19-3-403(4)(a).

19 (2) "Contracting employer" means any political subdivision or governmental entity that has  
20 contracted to come into the system under this chapter.

21 (3) "Defined benefit plan" means the plan within the public employees' retirement system  
22 established in 19-3-103 that is not the defined contribution plan.

23 (4) "Employer" means the state of Montana, its university system or any of the colleges, schools,  
24 components, or units of the university system for the purposes of this chapter, or any contracting  
25 employer, except that a nonprofit mental health corporation established pursuant to 53-21-204 may not  
26 be an employer with regard to employees hired after June 30, 1999.

27 (5) "Employer contributions" means payments to a pension trust fund pursuant to 19-3-316 from  
28 appropriations of the state of Montana and from contracting employers.

29 (6) ~~"Final "~~"Highest average salary compensation" means a member's highest average monthly  
30 compensation during any 36 consecutive months of membership service. Lump-sum payments for

1 severance pay, sick leave, and annual leave paid to the member upon termination of employment may be  
2 used in the calculation of a retirement benefit only to the extent that they are used to replace, on a  
3 month-for-month basis, the regular compensation for a month or months included in the calculation of the  
4 ~~final~~ highest average salary compensation. A lump-sum payment may not be added to a single month's  
5 compensation.

6 (7) "System" or "retirement system" means the public employees' retirement system established  
7 in 19-3-103."

8

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

10 **"19-3-403. Exclusions from membership.** The following persons may not become members of the  
11 retirement system:

12 (1) inmates of state institutions;

13 (2) persons in state institutions principally for the purpose of training but who receive  
14 compensation;

15 (3) independent contractors;

16 (4) persons who are members of any other retirement or pension system supported wholly or in  
17 part by funds of the United States government, any state government, or political subdivision of the state  
18 and who are receiving credit in the other system for service. It is the purpose of this subsection to prevent  
19 a person from receiving credit for the same service in two retirement systems supported wholly or in part  
20 by public funds, except when the service qualifies, is applied for, and is purchased pursuant to 19-3-503.

21 A member of the retirement system who, because of employment by the state, is required to become a  
22 member of any other system described in this subsection is considered, solely for the purposes of making  
23 regular contributions, as permanently separated from service. Exclusion under this subsection is subject  
24 to the following exceptions:

25 (a) When an employer has entered into a collective bargaining agreement that includes provisions  
26 for payments or contributions by the employer in lieu of wages to a retirement or pension plan qualified  
27 by the internal revenue service for its employees, the employees remain eligible, if otherwise qualified, for  
28 membership in the retirement system.

29 (b) For the purpose of this subsection (4), persons receiving pensions, retirement benefits, or other  
30 payments from any source on account of employment other than as an employee are not considered,

1 because of receipt, members of any other retirement or pension system.

2 (5) court commissioners, elected officials, or appointive members of any board or commission who  
3 serve the state or any contracting employer intermittently and who are paid on a per diem basis;

4 (6) full-time students employed at and attending the same public elementary school, high school,  
5 community college, or unit of the state university system, except that a person excluded from membership  
6 as a student of a public community college or a unit of the state university system who later becomes a  
7 an active member by otherwise becoming an employee may affirmatively exercise the option of ~~qualifying~~  
8 purchasing the service excluded by this subsection by applying to the board in writing after becoming a  
9 an active member and become eligible to receive credited service for the excluded service under the  
10 provisions of 19-3-505."

11

12 **Section 20.** Section 19-3-412, MCA, is amended to read:

13 **"19-3-412. Optional membership.** (1) The following employees in covered employment may  
14 become members of the retirement system at their option by filing an irrevocable, written application with  
15 the board within 180 days of commencement of their employment:

16 (a) elected officials of the state or local governments who are paid on a salary or wage basis rather  
17 than on a per diem or other reimbursement basis;

18 (b) employees serving in employment that does not cumulatively exceed a total of 960 hours of  
19 covered employment with all employers under this chapter in any fiscal year;

20 (c) employees directly appointed by the governor;

21 (d) employees working 6 months or less for the legislative branch to perform work related to the  
22 legislative session;

23 (e) the chief administrative officer of any city or county;

24 (f) employees of county hospitals or rest homes in counties of the third, fourth, fifth, sixth, and  
25 seventh class.

26 (2) Employees and officials described in subsections (1)(a) through (1)(f) who are employees or  
27 officials but not members on July 1, 1999, have until December 1, 1999, to file an irrevocable, written  
28 application with the board.

29 (3) If an employee declines optional membership, the employee shall ~~execute~~ sign a statement  
30 waiving membership and ~~the~~ file it with the employer. The employer shall file the statement with the board

1 and retain a copy of the statement. An employee who declines optional membership may not receive  
2 membership credit or service credit for the employment for which membership was declined.

3 (4) An employee who declined optional membership but later becomes a member may ~~qualify~~  
4 purchase service credit for the period of time beginning with the date of employment in which membership  
5 was declined to the commencement of membership. ~~Qualification~~ Purchase of service pursuant to this  
6 subsection must comply with 19-3-505.

7 (5) Membership in the retirement system is not optional for an employee who is already a member.  
8 Upon employment in a position for which membership is optional:

9 (a) a member who was an active member before the employment remains an active member;

10 (b) a member who was an inactive member before the employment becomes an active member;

11 and

12 (c) a member who was a retired member before the employment is subject to part 11 of this  
13 chapter.

14 (6) An employee who declines membership while employed in a position for which membership  
15 is optional may not later become a member while still employed in that position. If, after a break in service  
16 of 30 days or more, an employee who was a member in an optional membership position is reemployed  
17 in the same position or is employed in a different position for which membership is optional, the employee  
18 shall again choose or decline membership. However, if the break in service is less than 30 days, an  
19 employee who declined membership is bound by the employee's original decision to decline membership.

20 (7) An employee accepting a position that requires membership shall become a member even if  
21 the employee previously declined membership and did not have a 30-day break in service.

22 (8) If an employee or official fails to file with the board an irrevocable, written application within  
23 the time allowed in this section, the employee or official waives membership."  
24

25 **Section 21.** Section 19-3-503, MCA, is amended to read:

26 **"19-3-503. (Temporary) Election Application to qualify purchase military service.** (1) (a) Except  
27 as otherwise provided in ~~subsection (2)~~ this section, a member with at least 10 years ~~or more~~ of  
28 membership service ~~credits~~ CREDIT may, at any time prior to retirement, ~~make file~~ file a written ~~election~~  
29 application with the board to purchase service ~~credits~~ credit for ~~all or any portion~~ up to 5 years of the  
30 member's active service in the armed forces of the United States, including the first special service force

1 or the American merchant marine in oceangoing service during the period of armed conflict, December 7,  
 2 1941, to August 15, 1945, ~~up to a maximum of 5 years, if the member is not otherwise eligible to receive~~  
 3 ~~service credit for this same service pursuant to 19-2-707 or is ineligible under subsection (2).~~

4 (b) Except as provided in subsection (3)(b), to qualify purchase this military service, the member  
 5 shall ~~contribute to the pension trust fund~~ pay the actuarial cost of the member's military service credit,  
 6 based on the system's most recent actuarial valuation ~~of the system~~.

7 (2) ~~If a~~ A member is not eligible to purchase military service under this section if the member:

8 (a) has retired from active duty in the armed forces of the United States, including the first special  
 9 service force or the American merchant marine in oceangoing service during the period of armed conflict,  
 10 December 7, 1941, to August 15, 1945, with a military service retirement benefit, ~~the member may not~~  
 11 ~~qualify the member's military service under subsection (1) or (3) based on that military service:-~~

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

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

14 (3) (a) A member may, prior to retirement, ~~receive~~ purchase up to 4 years of creditable service  
 15 for active service in the armed forces of the United States, which includes the army, navy, marine corps,  
 16 air force, and coast guard, during the Korean conflict between June 1, 1950, and January 31, 1955, and  
 17 the Vietnam conflict between December 22, 1961, and May 7, 1975, dates inclusive, if the member has  
 18 at least 10 years of membership service in the retirement system and is not otherwise ineligible under  
 19 subsection (2).

20 (b) To ~~qualify this~~ purchase service under subsection (3)(a), a member shall:

21 (i) ~~submit to file with~~ the board a completed application form and proper certification of the  
 22 member's military service; and

23 (ii) ~~contribute~~ pay to the pension trust fund the amount determined by the board to be due,  
 24 on the member's compensation and regular contribution rate ~~as of~~ in the member's 11th year ~~and based~~  
 25 ~~on~~ for the 1st year purchased and, for each subsequent year purchased, an amount based on the  
 26 member's compensation and contribution rate in each of as many succeeding years succeeding the  
 27 member's 11th year as are required to ~~qualify this service~~ complete the purchase, with regular interest  
 28 from the date on which the member becomes eligible for this benefit to the date on which the ~~member~~  
 29 ~~makes the required contribution~~ purchase is complete.

30 (c) Service ~~qualified~~ purchased pursuant to this subsection (3) is in addition to the service that may

1 be ~~qualified~~ purchased under subsection (1), except that a member may not receive duplicate credit for  
2 the same years of military service.

3 (d) A member purchasing service under this subsection (3) may not purchase more military service  
4 than the member has membership service in excess of 10 years. (Terminates July 1, 2001--sec. 4, Ch.  
5 494, L. 1999.)

6 **19-3-503. (Effective July 1, 2001) Election Application to qualify purchase military service.** (1) (a)  
7 Except as provided in ~~subsection (2)~~ subsection (2) and subject to [section 29], a member with at least  
8 10 years or more of service ~~credits~~ credit may, at any time prior to retirement, ~~make file~~ file a written ~~election~~  
9 application with the board to purchase service ~~credits~~ credit for ~~all or any portion~~ up to 5 years of the  
10 member's active service in the armed forces of the United States, including the first special service force  
11 or the American merchant marine in oceangoing service during the period of armed conflict, December 7,  
12 1941, to August 15, 1945, ~~up to a maximum of 5 years, if the member is not otherwise eligible to receive~~  
13 ~~service credit for this same service pursuant to 19-2-707 or is ineligible under subsection (2).~~

14 (b) To qualify purchase this service, the member shall ~~contribute to the pension trust fund~~ pay the  
15 actuarial cost of the member's military service ~~credit~~, based on the system's most recent actuarial  
16 valuation ~~of the system~~.

17 (2) ~~if a~~ A member is not eligible to purchase military service under this section if the member:

18 (a) has retired from active duty in the armed forces of the United States, including the first special  
19 service force or the American merchant marine in oceangoing service during the period of armed conflict,  
20 December 7, 1941, to August 15, 1945, with a military service retirement benefit, ~~the member may not~~  
21 ~~qualify the member's military service under subsection (1)~~ based on that military service;

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

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

24

25 **Section 22.** Section 19-3-505, MCA, is amended to read:

26 **"19-3-505. Qualification Purchase of previous employment with employer.** (1) Subject to the  
27 provisions of this section, a member who has employment for which optional membership was declined  
28 or employment with an employer prior to the employer's contract coverage may ~~request~~ file a written  
29 application with the board to qualify purchase all or a portion of the employment as membership service  
30 ~~by filing written application with the board~~ for service credit. The application must include salary



1 information certified by the member's employer or former employer.

2 (2) (a) A purchase of service under this section is subject to the board's approval.

3 (b) If the board approves the application request, the member shall pay ~~to the board the sum of~~  
4 the amount that the member and the member's employer would have contributed during the period of  
5 employment as if the employment had been covered by the retirement system and shall pay the regular  
6 interest that would have accumulated on the amount to the time of payment. However, the employer may  
7 pay the employer's portion, including accrued regular interest as provided in subsection ~~(2)(b)~~ (2)(c).

8 ~~(b)(c)~~ The employer shall establish a policy as to the payment of retroactive employer contributions  
9 and apply this policy indiscriminately for all employees and former employees. All employee appeals of  
10 discrimination are subject to the determination of the board. All successful appeals obligate the employer  
11 to pay the employer and employee contributions with accrued interest for that employee filing the appeal  
12 with the board. Each appeal must be heard on its individual merits and may not bind the employer to pay  
13 all retroactive payments for all former and present employees.

14 ~~(3) A member may secure service credit not previously credited by submitting salary information~~  
15 ~~certified by the member's employer or former employer to the board. The board shall determine the~~  
16 ~~eligibility of all service credit requests."~~

17

18 **Section 23.** Section 19-3-509, MCA, is amended to read:

19 **"19-3-509. Qualification Purchase of other Montana public service.** (1) (a) A member may, at any  
20 time before retirement, ~~make file~~ a written ~~election~~ application with the board to ~~qualify purchase~~  
21 service in this retirement system all or any portion of the member's service credit in the highway patrol  
22 officers', sheriffs', game wardens' and peace officers', firefighters' unified, or municipal police officers'  
23 retirement system ~~for which~~ to the extent that the member either has received or is eligible to receive a  
24 refund of membership contributions. To ~~qualify purchase~~ this service, the member shall ~~contribute to the~~  
25 ~~pension trust fund~~ pay the actuarial cost of ~~granting~~ the service in the public employees' retirement  
26 system, as determined by the board, based on the system's most recent actuarial valuation minus the  
27 employer contribution provided in subsection (1)(b).

28 (b) Upon receiving the member's payment under subsection (1)(a), the board shall transfer from  
29 the member's former retirement system to the public employees' retirement system an amount equal to  
30 the employer contributions made during the member's service but no more than an amount equal to the

1 normal cost contribution rate minus the employee contribution rate in the public employees' retirement  
 2 system, according to the most recent actuarial valuation, based on the salaries earned by the employee  
 3 as a member of the former system.

4 (2) (a) A member may, at any time before retirement, ~~make file~~ a written ~~election application~~ with  
 5 the board to ~~qualify purchase any~~ ALL OR A PORTION OF full-time public service employment performed for  
 6 the state or a political subdivision of the state. The member shall provide salary and employment  
 7 documentation certified by the member's former public employer. ~~The board may grant service credit upon~~  
 8 ~~contribution by~~ To purchase service under this section, the employee ~~of~~ shall pay the actuarial cost of  
 9 ~~granting this~~ the service in the public employees' retirement system, as determined by the board, based  
 10 on the system's most recent actuarial valuation ~~of the system~~.

11 (b) The board is the sole authority under this subsection (2) in determining what constitutes  
 12 full-time public service."  
 13

14 **Section 24.** Section 19-3-510, MCA, is amended to read:

15 **"19-3-510. Employment in United States government.** (1) A member who is assigned to an  
 16 agency of the United States government under Title IV, the Intergovernmental Personnel Act of 1970, may  
 17 ~~qualify purchase~~ the federal employment as service in the retirement system under subsection (2), ~~provided~~  
 18 ~~that if:~~

19 (a) the member has accrued 5 years or more of membership service in the retirement system; and

20 (b) the member returns to full-time service with the former state or local government employer  
 21 for at least 1 year after completing employment in the United States government.

22 (2) A member of the retirement system who is assigned to an agency of the United States  
 23 government has the option to:

24 (a) continue the member's payments into the pension trust fund; or

25 (b) ~~qualify purchase~~ the period of federal employment under this section within 2 years after return  
 26 to service under the retirement system.

27 (3) Salary earned while on assignment to an agency of the United States government must be  
 28 considered compensation for the purposes of the retirement system and may be included in the  
 29 determination of ~~final highest~~ average salary compensation, provided that the ~~final highest~~ average salary  
 30 compensation ~~cannot~~ does not exceed 100% of the member's highest annual compensation earned as a

1 state or local government employee."

2

3 **Section 25.** Section 19-3-511, MCA, is amended to read:

4 **"19-3-511. Transfer and purchase of service credits and contributions from teachers' retirement**

5 **system.** (1) ~~An~~ Except as provided in subsection (3)(b), an active member may, at any time before  
6 retirement ~~make, file~~ a written ~~election~~ application with the board to ~~qualify purchase~~ in the public  
7 employees' retirement system ~~all of the member's service in the teachers' retirement system for which~~  
8 to the extent that the member has either ~~has~~ received or is eligible to receive a refund for the service.

9 (2) ~~The amount that must be paid or transferred to the retirement system to qualify~~ The cost of  
10 purchasing this service under this section is the sum of subsections (2)(a) and (2)(b) as follows:

11 (a) The teachers' retirement system shall transfer an amount equal to 72% of the amount payable  
12 by the member.

13 (b) The member shall pay either directly or by transferring contributions on account with the  
14 teachers' retirement system an amount equal to the member's accumulated contributions at the time that  
15 active membership was terminated with the teachers' retirement system, plus accrued interest. Interest  
16 must be calculated from the date of termination until payment is received by the public employees'  
17 retirement system, based on the interest tables in use by the teachers' retirement system.

18 (3) (a) The amount of service credit granted in subsection (1) must be on a month-by-month basis.

19 (b) ~~Military service~~ Service credit transferred from the teachers' retirement system ~~must be~~  
20 ~~included in the 5-year maximum military service credit provided for in 19-3-503~~ is subject to the provisions  
21 and limitations of [section 28].

22 (4) Subject to the provisions of 19-2-403, the board is the sole authority in determining the  
23 amount of service credit ~~qualified~~ that a member may purchase under this section and the amount paid  
24 to the retirement system under subsection (2).

25 (5) If an active member who also has service credit in the teachers' retirement system dies before  
26 the member ~~qualifies purchases~~ this service in the public employees' retirement system and if the service  
27 credits from both systems, when combined, entitle the member's designated beneficiary to a survivorship  
28 benefit, the payment of the survivorship benefit is the liability of the public employees' retirement system.  
29 Before payment of the survivorship benefit, the teachers' retirement board shall transfer to the public  
30 employees' retirement system the contributions necessary to ~~qualify purchase~~ this service in the public

1 employees' retirement system, as provided in subsection (2).

2 (6) If the board determines that a member was erroneously classified and reported to the teachers'  
3 retirement system, the member's accumulated contributions and service, together with the employer  
4 contributions plus interest, must be transferred to the public employees' retirement system. Employee and  
5 employer contributions due as calculated under 19-3-315 and 19-3-316 are the liability of the employee  
6 and the employing entity, respectively, where the error occurred. For the period of time that the employer  
7 contributions are held by the teachers' retirement system, interest paid on employer contributions  
8 transferred under this subsection must be calculated at the short-term investment pool rate earned by the  
9 board of investments in the fiscal year preceding the transfer request."

10

11 **Section 26.** Section 19-3-512, MCA, is amended to read:

12 **"19-3-512. Qualification Purchase of service from other public retirement systems.** (1) ~~A Subject~~  
13 ~~to [section 28], a~~ member with at least 5 or more years of membership service in the public employees'  
14 retirement system may qualify purchase:

15 (a) public service employment covered under a public retirement system other than a system  
16 provided for in Title 19 for which the member received a refund of the member's membership contribution;  
17 and

18 (b) public service employment that occurred before the public employer adopted a public  
19 retirement system.

20 (2) A member may not qualify purchase more than 5 years of service under this section. To qualify  
21 purchase this service, a member shall:

22 (a) at any time before retirement ~~make, file~~ a written election application with the board ~~to qualify~~  
23 ~~the service~~; and

24 (b) ~~contribute to the pension trust fund~~ pay the actuarial cost of ~~granting~~ the service in the public  
25 employees' retirement system, as determined by the board, based on the system's most recent actuarial  
26 valuation ~~of the system~~.

27 (3) Service ~~qualified~~ purchased under this section may not be used to qualify a member to  
28 purchase military service under 19-3-503.

29 (4) Service ~~qualified~~ purchased under this section may not be used in calculating a member's  
30 retirement benefit unless the member's last 5 years of service credit were earned under the public

1 employees' retirement system. If ~~a, upon the member's retirement, the member's~~ qualified purchased  
 2 ~~service may not~~ cannot be used in calculating the member's retirement benefit, the member ~~may choose~~  
 3 ~~to~~ must receive a refund of the ~~accumulated contributions made~~ amount paid to ~~qualify~~ purchase the  
 4 ~~service, plus regular interest on that amount."~~

5

6 **Section 27.** Section 19-3-513, MCA, is amended to read:

7 **"19-3-513. (Temporary) Election Application to purchase additional service.** (1) ~~At any time before~~  
 8 ~~retirement, a person who has 5 years or more of membership service may make a written election with~~  
 9 ~~the board to purchase additional service credit for the purpose of calculating the member's retirement~~  
 10 ~~benefit. Except as provided in subsection (3), the~~ Subject to [section 28], a member with at least 5 years  
 11 of membership service may, at any time before retirement, file a written application with the board to  
 12 purchase 1 year of additional service credit for each 5 years of membership service that the member has  
 13 ~~qualified under in~~ the retirement system, ~~up to a maximum of 5 years of additional service.~~

14 (2) ~~For each year of service credit purchased under this section~~ To purchase service under this  
 15 section, a member shall ~~contribute to the pension trust fund~~ pay the actuarial cost of the service credit,  
 16 based on the system's most recent actuarial valuation ~~of the system.~~

17 (3) (a) ~~Except as provided in subsection (3)(b), a member may elect to qualify a combined total~~  
 18 ~~of 5 years of service under 19-3-512 or this section.~~

19 ~~——(b) A member who has purchased service under 19-3-503 or 19-3-512 on or before January 1,~~  
 20 ~~1990, and who elects to purchase service under this section must receive credit for the full months of~~  
 21 ~~service purchased on or before January 1, 1990.~~

22 ~~——(4) Service purchased under this section is not membership service and may not be used to qualify~~  
 23 ~~a member for service retirement. (Terminates July 1, 2001--sec. 4, Ch. 494, L. 1999.)~~

24 **19-3-513. (Effective July 1, 2001) Election Application to purchase additional service.** (1) ~~At any~~  
 25 ~~time before retirement, a person who has 5 years or more of membership service may make a written~~  
 26 ~~election with the board to purchase additional service credit for the purpose of calculating the member's~~  
 27 ~~retirement benefit. Except as provided in subsection (3), the~~ Subject to [section 29], a member with at  
 28 least 5 years of membership service may, at any time before retirement, file a written application with the  
 29 board to purchase 1 year of additional service credit for each 5 years of membership service that the  
 30 ~~member has qualified under the retirement system, up to a maximum of 5 years of additional service.~~

1           ~~(2) For each year of service credit purchased under this section~~ To purchase this service under  
 2 this section, a member shall ~~contribute to the pension trust fund~~ pay the actuarial cost of the service  
 3 ~~credit~~, based on the system's most recent actuarial valuation ~~of the system~~.

4           ~~(3) (a) Except as provided in subsection (3)(b), a member may elect to qualify a combined total~~  
 5 ~~of 5 years of service under 19-3-503, 19-3-512, or this section.~~

6 ~~———(b) A member who has purchased service under 19-3-503 or 19-3-512 on or before January 1,~~  
 7 ~~1990, and who elects to purchase service under this section shall receive credit for the full months of~~  
 8 ~~service purchased on or before January 1, 1990.~~

9 ~~———(4) Service purchased under this section is not membership service and may not be used to qualify~~  
 10 ~~a member for service retirement."~~

11

12           NEW SECTION. Section 28. Service purchase limit -- exception. (1) Except as provided in  
 13 subsection (2), a member may not purchase more than a combined total of 5 years under 19-3-511(3)(b),  
 14 19-3-512, and 19-3-513.

15           (2) A member who has purchased service under 19-3-503 or 19-3-512 on or before January 1,  
 16 1990, and who elects to purchase service under 19-3-513 must receive credit for the full months of  
 17 service purchased on or before January 1, 1990.

18

19           NEW SECTION. Section 29. Service purchase limit -- exception. (1) Except as provided in  
 20 subsection (2), a member may not purchase more than a combined total of 5 years under 19-3-503,  
 21 19-3-511(3)(b), 19-3-512, and 19-3-513.

22           (2) A member who has purchased service under 19-3-503 or 19-3-512 on or before January 1,  
 23 1990, and who elects to purchase service under 19-3-513 must receive credit for the full months of  
 24 service purchased on or before January 1, 1990.

25

26           **Section 30.** Section 19-3-901, MCA, is amended to read:

27           **"19-3-901. Eligibility for service retirement.** (1) A member who has attained the age of 60 and  
 28 has 5 years of membership service is eligible for service retirement. A member who has attained age 65  
 29 while employed in a position covered by a public employees' retirement system is eligible for service  
 30 retirement regardless of the member's years of membership service. A member who has 30 years or more

1 of membership service is eligible for service retirement regardless of the member's age.

2 (2) In each of the circumstances described in subsection (1), the member has attained normal  
3 retirement age."

4

5 **Section 31.** Section 19-3-904, MCA, is amended to read:

6 **"19-3-904. Amount of service retirement benefit.** The monthly amount of retirement benefit  
7 payable to a member following service retirement is the greater of subsection (1) or (2) as follows:

8 (1) one fifty-sixth of the member's ~~final~~ highest average ~~salary~~ compensation multiplied by the  
9 number of years of the member's total service credit; or

10 (2) a monthly benefit that is the sum of:

11 (a) the actuarial equivalent of double the member's regular contributions ~~plus~~ and regular interest;  
12 plus

13 (b) the actuarial equivalent of any additional contributions and regular interest."

14

15 **Section 32.** Section 19-3-1002, MCA, is amended to read:

16 **"19-3-1002. Eligibility for disability retirement.** (1) Except as provided in subsections (2) and (3),  
17 a member entering service prior to February 24, 1991, who is not eligible for service or early retirement  
18 but has at least 5 years of membership service and has become disabled while an active member is eligible  
19 for disability retirement, as provided in 19-3-1008(1).

20 (2) An active member age 60 or older who has completed 5 years of membership service and has  
21 had a duty-related accident forcing the member to terminate employment but who has not received or is  
22 ineligible to receive workers' compensation benefits under Title 39, chapter 71, for the duty-related  
23 accident may conditionally waive the member's eligibility for a service retirement in order to be eligible for  
24 disability retirement. The waiver is effective only upon approval by the board of the member's written  
25 application for disability retirement. The board shall determine whether a member has become disabled.  
26 The board may request any information on file with the state compensation insurance fund concerning any  
27 duty-related accident. If information is not available, the board may request and the state fund shall then  
28 provide an investigative report on the disabling accident.

29 (3) (a) A member in service on February 24, 1991, has a one-time election to be covered for  
30 disability purposes under the provisions of 19-3-1008(2). This election is irrevocable and must be made

1 in writing by the member no later than December 31, 1991. Coverage under the provisions of  
2 19-3-1008(2) commences on the date the completed written election ~~form~~ is received by the board or its  
3 designated representative. To be eligible for disability benefits under the provisions of this part, a member  
4 must have completed 5 years of membership service and must have become disabled while an active  
5 member.

6 (b) An individual becoming a member after February 24, 1991, who has completed 5 years of  
7 membership service and has become disabled while an active member is covered for disability purposes  
8 under the provisions of 19-3-1008(2)."

9

10 **Section 33.** Section 19-3-1005, MCA, is amended to read:

11 **"19-3-1005. Application for disability retirement benefit.** The board shall grant a disability  
12 retirement benefit to any member who has fulfilled the eligibility requirements of 19-3-1002 and filed the  
13 appropriate written application with the board. An application may be filed on a member's behalf by the  
14 head of the office or department in which the member is or was last employed, ~~or~~ by any other person on  
15 behalf of the member, or by the board upon its own motion ~~may make the application~~. ~~Application~~ The  
16 application must be ~~made~~ filed within 4 months after the member's termination from service unless the  
17 member is disabled continuously from the date of termination from service to the date of the application."

18

19 **Section 34.** Section 19-3-1007, MCA, is amended to read:

20 **"19-3-1007. Benefit for duty-related disability.** (1) The retirement benefit payable to a member  
21 eligible for disability retirement for duty-related reasons and granted prior to July 1, 1977, is 50% of the  
22 member's ~~final~~ highest average ~~salary~~ compensation.

23 (2) ~~Any~~ A retired member receiving a disability retirement benefit on July 1, 1977, who has  
24 previously been granted a duty-related disability under provisions in effect on June 30, 1977, is subject  
25 to the provisions of this section after July 1, 1977."

26

27 **Section 35.** Section 19-3-1008, MCA, is amended to read:

28 **"19-3-1008. Benefit for disability.** (1) The monthly amount of the retirement benefit payable to  
29 a member eligible for disability retirement under the provisions of 19-3-1002(1) is the greater of subsection  
30 (1)(a) or (1)(b) as follows:



1 (a) 90% of one fifty-sixth of the member's ~~final~~ highest average ~~salary~~ compensation multiplied  
2 by the member's years of service credit, including any additional service purchased under 19-3-513; or

3 (b) a retirement benefit equal to 25% of the member's ~~final~~ highest average ~~salary~~ compensation.

4 (2) The monthly amount of retirement benefit payable to a member eligible for disability retirement  
5 under the provisions of 19-3-1002(3) is a retirement benefit equal to one fifty-sixth of the member's ~~final~~  
6 highest average ~~salary~~ compensation multiplied by the member's years of service credit, including any  
7 additional service purchased under 19-3-513.

8 (3) Subject to the provisions of part 11 of this chapter, a retired member receiving a disability  
9 retirement benefit on February 24, 1991, who has previously been granted a disability retirement benefit  
10 under the provisions of this section will continue to receive the monthly disability retirement benefit as  
11 calculated prior to February 24, 1991, subject to any postretirement or cost-of-living increases granted  
12 by the legislature."

13

14 **Section 36.** Section 19-3-1015, MCA, is amended to read:

15 **"19-3-1015. Medical examination of disability retiree -- cancellation and reinstatement.** (1) The  
16 board may, in its discretion, require a disabled member to undergo a medical examination. The examination  
17 must be made by a physician or surgeon appointed by the board, at a place mutually agreed upon by the  
18 retired member and the board. Upon the basis of the examination, the board shall determine whether the  
19 disabled member is unable, by reason of physical or mental incapacity, to perform the essential elements  
20 of either the position held by the member when the member retired or the position proposed to be assigned  
21 to the member. If the board determines the member is not incapacitated or if the member refuses to submit  
22 to a medical examination, the member's retirement benefit must be canceled.

23 (2) If the board determines that a disabled member should no longer be subject to medical review,  
24 the board may grant service retirement status to the member without recalculating the monthly benefit.  
25 The board shall notify the member in writing as to the change in status. If the disabled member disagrees  
26 with the board's determination, the member may ~~make file~~ file a written application ~~to the board to request~~  
27 with the board requesting that the board ~~to~~ reconsider its action. The written application for  
28 reconsideration must be ~~made~~ filed within 60 days after receipt of the notice of the status change.

29 (3) (a) Except as provided in subsections (3)(b) and (3)(c), a member whose disability retirement  
30 benefit is canceled because the board has determined that the member is no longer incapacitated must be

1 reinstated to the position held by the member immediately before the member's retirement or to a position  
 2 in a comparable pay and benefit category with duties within the member's capacity if the member was  
 3 an employee of the state or of the university. If the member was an employee of a contracting employer,  
 4 the board shall notify the proper official of the contracting employer that the disability retirement benefit  
 5 has been canceled and that the former employee is eligible for reinstatement to duty. The fact that the  
 6 former employee was retired for disability may not prejudice any right to reinstatement to duty that the  
 7 former employee may have or claim to have.

8 (b) A member who is employed by an employer terminates any right to reinstatement provided  
 9 by this section.

10 (c) This section does not affect any requirement that the former employee meet or be able to meet  
 11 professional certification and licensing standards unrelated to the disability and necessary for reinstatement  
 12 to duty.

13 (4) If a member whose disability retirement benefit is canceled is not reemployed in a position  
 14 subject to the retirement system, the member's service is considered, for the purposes of 19-2-602, to  
 15 have been discontinued coincident with the commencement of the member's retirement benefit."

16

17 **Section 37.** Section 19-3-1103, MCA, is amended to read:

18 **"19-3-1103. Disability benefit reduced by earnings --change in retirement status.** (1) (a) If the  
 19 recipient of a disability retirement benefit engages in a gainful occupation during any month other than in  
 20 a position covered by the retirement system, the amount of the recipient's retirement benefit for that  
 21 month must be reduced to an amount that, when added to the compensation earned by the recipient in  
 22 that occupation, does not exceed the amount of the recipient's monthly compensation at the time of the  
 23 recipient's retirement.

24 (b) The board, ~~upon the written application of a recipient of a disability retirement benefit, may~~  
 25 shall annually adjust the recipient's monthly compensation as it was at the time of retirement by an  
 26 inflationary factor if the recipient has been receiving a disability retirement benefit for more than 36  
 27 consecutive months.

28 (2) ~~At the request of a recipient of a disability retirement benefit who is age 60 or older, the board~~  
 29 ~~may grant service retirement status to the recipient without recalculating the recipient's monthly benefit.~~

30 ~~—(3)~~ Benefit adjustments granted by the legislature may not be included in calculations required

1 under this section."

2

3 **Section 38.** Section 19-3-1105, MCA, is amended to read:

4 **"19-3-1105. Benefit upon second retirement.** (1) Except as otherwise expressly provided by law,  
5 a member with at least 2 years of service credit accrued after reemployment must receive the benefit of  
6 provisions enacted after the member's initial retirement, but only with respect to the service credit earned  
7 after reemployment.

8 (2) Upon retirement subsequent to a cancellation under 19-3-1104, a member ~~shall~~ must receive  
9 a recalculated benefit as provided in 19-3-904. The recalculated benefit is based on service credit  
10 accumulated at the time of the member's previous retirement plus any service credit accumulated  
11 subsequent to reemployment.

12 ~~(2) Except as otherwise expressly provided by law, the member must receive the benefit of~~  
13 ~~provisions enacted subsequent to initial retirement only if the member accrues at least 2 years of service~~  
14 ~~credit subsequent to reinstatement and then only with respect to the service credit."~~

15

16 **Section 39.** Section 19-3-1106, MCA, is amended to read:

17 **"19-3-1106. Limited reemployment -- reduction of service retirement benefit upon exceeding limits**  
18 **-- exception.** (1) A retired member under 65 years of age who is receiving a service retirement benefit may  
19 return to employment covered by the retirement system for a period not to exceed 640 hours in any  
20 calendar year without returning to active service and without any effect to the retiree's retirement benefit.  
21 The retirement benefit for any retiree exceeding this 640-hour limitation in any calendar year after  
22 retirement must be temporarily reduced \$1 for each \$1 earned after working 640 hours in that calendar  
23 year.

24 (2) A retiree 65 years of age or older who returns to employment covered by the retirement  
25 system is either subject to the 640-hour limitation of subsection (1) or may earn in any calendar year an  
26 amount that, when added to the retiree's current annual retirement benefits, will not exceed the member's  
27 annualized ~~final~~ highest average salary compensation, adjusted for inflation as of January 1 of the current  
28 calendar year, whichever limitation provides the higher limit on earned compensation to the retiree. Upon  
29 reaching the applicable limitation, the retiree's benefits must be temporarily reduced \$1 for each \$1 of  
30 compensation earned in covered service beyond the applicable limitation during that calendar year.

1 (3) A retiree returning to employment covered by the retirement system and the returning  
 2 employee's employer shall certify to the board the number of hours worked by the retiree and the gross  
 3 compensation paid to the retiree in that employment during any month after retirement.

4 (4) A retiree returning to employment covered by the retirement system may elect to return to  
 5 active membership at any time during this period of covered employment.

6 (5) A retired member 70 1/2 years of age or older who returns to employment covered by the  
 7 retirement system is not subject to the hour or earnings limitations in subsections (1) and (2) or the  
 8 reporting requirements in subsection (3)."

9

10 **Section 40.** Section 19-3-1203, MCA, is amended to read:

11 **"19-3-1203. Election of optional death annuity.** The designated beneficiary of a member may  
 12 elect, by filing a written application with the board, to have the lump-sum death payment paid in an  
 13 actuarially equivalent form, subject to ~~the rules~~ that the board may adopt. ~~Election of an optional death~~  
 14 ~~annuity must be by written application.~~ The annuity payments are not subject to increases that may be  
 15 granted to other monthly retirement benefits."

16

17 **Section 41.** Section 19-3-1204, MCA, is amended to read:

18 **"19-3-1204. Survivorship benefit elected by beneficiary.** (1) A designated beneficiary eligible to  
 19 receive a lump-sum death payment may instead elect, a survivorship benefit by filing a written application  
 20 with the board, ~~a survivorship benefit instead,~~ if all of the following conditions are met:

21 (a) The member on behalf of whom the death benefit is payable had completed 5 years of  
 22 membership service.

23 (b) The designated beneficiary is a natural person.

24 (c) The designated beneficiary elects the survivorship benefit within 90 days of receipt of notice  
 25 from the board that the designated beneficiary is eligible to receive the lump-sum death payment.

26 (2) The designated beneficiary of a vested member may, by filing a written application with the  
 27 board, elect to receive a survivorship benefit in lieu of a lump-sum payment of the member's account.

28 (3) (a) If the designated beneficiary is a minor, the custodian designated in 19-2-803 may, on the  
 29 minor's behalf, file a written application with the board.

30 (b) If an application is not filed on the minor's behalf and no payment has been made, the

1 designated beneficiary may file a written application upon reaching the age of majority. For the purposes  
 2 of this subsection (3)(b), the survivorship benefit provided for in 19-3-1205 must be calculated as if the  
 3 member had died on the last day of the month before the month in which the application was filed."

4

5 **Section 42.** Section 19-3-1501, MCA, is amended to read:

6 **"19-3-1501. Optional forms of benefits -- designation of contingent annuitant.** (1) The retirement  
 7 benefit of a member or the survivorship benefit of a designated beneficiary who ~~makes an election so~~  
 8 elects must be converted, in lieu of all other benefits under this chapter, into an optional retirement benefit  
 9 that is the actuarial equivalent of the original benefit. The optional retirement benefit is initially payable  
 10 during the member's or designated beneficiary's lifetime, with a subsequent benefit to ~~the a~~ contingent  
 11 annuitant ~~whom the member or designated beneficiary nominated by written designation, executed and~~  
 12 ~~filed with the board on the application for benefits,~~ as follows:

13 (a) ~~Option option~~ 2--a continuation of the reduced amount after the death of the initial payee and  
 14 payable during the lifetime of the named contingent annuitant;

15 (b) ~~Option option~~ 3--a continuation of one-half of the reduced amount after the death of the initial  
 16 payee and payable during the lifetime of the named contingent annuitant;

17 (c) ~~Option option~~ 4--upon the initial payee's death, other actuarially equivalent amounts payable  
 18 to a contingent annuitant as may be approved by the board.

19 (2) ~~Election of~~ The member or the designated beneficiary who elects an optional retirement benefit  
 20 ~~must be by~~ shall file a written application ~~filed~~ with the board prior to the first payment of the benefit. A  
 21 contingent annuitant must be identified on the application.

22 (3) If a benefit recipient or the recipient's contingent annuitant dies before the first payment has  
 23 been made under option 2 or 3, the election of the option is automatically canceled.

24 (4) If a member dies after retirement and within 30 days from the date that the member's ~~election~~  
 25 written application electing or changed changing an election of an optional retirement benefit is received  
 26 by the board, then the election is void ~~and the death is considered as that of a member before retirement.~~

27 (5) (a) Upon filing a written application ~~to~~ with the board, a retired member who is receiving an  
 28 optional retirement benefit that became effective before October 1, 1999, may designate a different  
 29 contingent annuitant, select a different option, or convert the member's optional retirement benefit to a  
 30 regular retirement benefit if:

1 (i) the original contingent annuitant has died; or  
 2 (ii) the member's marriage to the original contingent annuitant has been dissolved and the original  
 3 contingent annuitant has not been granted the right to receive the optional retirement benefit as part of  
 4 the dissolution settlement or family law order.

5 (b) Upon receipt of the written application, the board shall actuarially adjust the member's monthly  
 6 retirement benefit to reflect the change.

7 (6) (a) A retired member receiving an optional retirement benefit pursuant to subsection (1)(a) or  
 8 (1)(b) that is initially effective on or after October 1, 1999, may file a written application with the board  
 9 to have the optional retirement benefit revert to the regular retirement benefit available at the time of the  
 10 member's retirement if:

11 (i) the contingent annuitant has died, in which case the optional benefit must revert effective on  
 12 the first day of the month following the contingent annuitant's death; or

13 (ii) the member's marriage to the contingent annuitant is dissolved and the beneficiary was not  
 14 granted the right to receive the optional retirement benefit as part of the dissolution settlement or a family  
 15 law order, in which case the benefit must revert effective on the first day of the month following receipt  
 16 of the written application and verification that the dissolution settlement or family law order does not grant  
 17 the optional benefit to the contingent annuitant.

18 (b) A regular retirement benefit provided pursuant to this subsection (6) must be increased by the  
 19 value of any postretirement adjustments received by the member since the effective date of the member's  
 20 retirement.

21 (7) A written application pursuant to subsection (5) or (6) must be filed with the board within 18  
 22 months of the death of or dissolution of marriage to the contingent annuitant."

23

24 **Section 43.** Section 19-5-101, MCA, is amended to read:

25 **"19-5-101. Definitions.** Unless a different meaning is plainly implied by the context, the following  
 26 definitions apply in this chapter:

27 (1) "Compensation" means remuneration, as defined in 2-16-403, 3-5-211, and 3-7-222, paid to  
 28 a member.

29 (2) "Current salary" means the current compensation for the office retired from.

30 (3) ~~"Final "~~"Highest average salary compensation" means the average of the member's highest

1 monthly compensation during any 36 consecutive months of membership service in the retirement system.

2 (4) "Involuntary retirement" means a retirement not for cause and before retirement age.

3 (5) "Retired judge" means any judge or justice in receipt of a retirement benefit under this  
4 chapter."

5

6 **Section 44.** Section 19-5-409, MCA, is amended to read:

7 **"19-5-409. Election Application to purchase additional service.** (1) At any time before retirement,  
8 a member may ~~make file~~ a written ~~election application~~ with the board to purchase additional service credit  
9 for the purpose of calculating the member's retirement benefit. Except as provided in subsection (3), the  
10 member may purchase 1 year of additional service credit for every 5 years of membership service that the  
11 member has ~~qualified under in~~ the retirement system.

12 (2) For each year of service credit purchased under this section, a member shall contribute to the  
13 pension trust fund an amount equal to the actuarial cost of granting the service, based on the most recent  
14 actuarial valuation of the system as determined by the board.

15 (3) A member may ~~elect to qualify no~~ not purchase more than 5 years of service under 19-2-707  
16 and this section.

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

20

21 **Section 45.** Section 19-5-501, MCA, is amended to read:

22 **"19-5-501. Eligibility for service retirement.** (1) ~~Any A~~ member who has at least 5 years of  
23 membership service and has reached the age of 65 has attained normal retirement age and may retire and  
24 receive the ~~proportional~~ retirement benefits provided in 19-5-502.

25 (2) Retirement benefits may not be approved by the board while the member is drawing full  
26 compensation as a judge or justice. However, benefits may not be withheld for receiving compensation  
27 as a judge pro tempore."

28

29 **Section 46.** Section 19-5-502, MCA, is amended to read:

30 **"19-5-502. Service retirement benefit.** Upon retirement from service, the service retirement

1 benefit must be as follows:

2 (1) for members not covered under 19-5-901, 3 1/3% ~~per a~~ year of the member's current salary  
3 for the first 15 years of credited service and 1.785% ~~per a~~ year for each year of credited service after 15  
4 years; or

5 (2) for members covered under 19-5-901, the benefit provided under subsection (1) except that  
6 the benefit must be calculated using ~~final~~ highest average ~~salary~~ compensation."

7

8 **Section 47.** Section 19-5-503, MCA, is amended to read:

9 **"19-5-503. Involuntary retirement benefit.** (1) If a member is involuntarily discontinued from  
10 service after having completed 5 years of membership service but before reaching normal retirement age,  
11 the member ~~shall~~ must, upon filing with the board an application in the manner prescribed by the board,  
12 be paid an involuntary retirement benefit of equivalent actuarial value to the service retirement benefit  
13 payable under 19-5-502 then standing to the member's credit.

14 (2) If a member elected or appointed to office after July 1, 1983, is discontinued from service  
15 after having earned at least 12 years of service credit but before reaching service normal retirement age,  
16 the member may apply for and receive a retirement benefit that is the actuarial equivalent of benefits  
17 pursuant to subsection (1)."

18

19 **Section 48.** Section 19-5-601, MCA, is amended to read:

20 **"19-5-601. Disability retirement benefit.** In the case of the disability of a member, a disability  
21 retirement benefit must be granted the member in an amount actuarially equivalent to the service  
22 retirement benefit standing to the member's credit at the time of the member's disability retirement. If the  
23 disability is a direct result of any service or duty for the Montana judiciary, the member's disability  
24 retirement benefit must be:

25 (1) the greater of one-half of the member's ~~final~~ current salary or the contingent annuitant's  
26 benefit, if applicable, for a person not covered under 19-5-901; or

27 (2) the greater of one-half of the member's ~~final~~ highest average ~~salary~~ compensation or the  
28 contingent annuitant's benefit, if applicable, for a person covered under 19-5-901."

29

30 **Section 49.** Section 19-5-701, MCA, is amended to read:



1           **"19-5-701. Optional forms of benefits -- designation of contingent annuitant.** (1) The retirement  
 2 benefit of a member or the survivorship benefit of a designated beneficiary who so elects, must be  
 3 converted, in lieu of all other benefits under this chapter, into an optional retirement benefit that is the  
 4 actuarial equivalent of the original benefit. The optional retirement benefit is initially payable during the  
 5 member's or designated beneficiary's lifetime, with a subsequent benefit payable to ~~the~~ a contingent  
 6 annuitant ~~that the member or designated beneficiary nominated by written designation, executed and filed~~  
 7 ~~with the board on the application for benefits,~~ as follows:

8           (a) ~~Option~~ option 2--a continuation of the reduced amount after the death of the initial payee and  
 9 payable during the lifetime of the named contingent annuitant;

10           (b) ~~Option~~ option 3--a continuation of one-half of the reduced amount after the death of the initial  
 11 payee and payable during the lifetime of the named contingent annuitant;

12           (c) ~~Option~~ option 4--upon the initial payee's death, other actuarially equivalent amounts payable  
 13 to a contingent annuitant as may be approved by the board.

14           (2) ~~Election of~~ The member or designated beneficiary who elects an optional retirement benefit  
 15 ~~must be by~~ shall file a written application filed with the board prior to the first payment of the benefit. A  
 16 contingent annuitant must be identified on the application.

17           (3) If a benefit recipient or the recipient's contingent annuitant dies before the first payment has  
 18 been made under option 2 or 3, the election of the option is automatically canceled.

19           (4) If the member dies after retirement and within 30 days from the date that the member's  
 20 ~~election~~ written application electing or ~~changed~~ changing an election of an optional retirement benefit is  
 21 received by the board, the election is void ~~and the death is considered as that of a member before~~  
 22 retirement.

23           (5) (a) A retired member receiving an optional retirement benefit pursuant to subsection (1)(a) or  
 24 (1)(b) that is initially effective on or after October 1, 1999, may file a written application with the board  
 25 to have the optional retirement benefit revert to the regular retirement benefit available at the time of the  
 26 member's retirement if:

27           (i) the contingent annuitant has died, in which case the optional benefit must revert effective on  
 28 the first day of the month following the contingent annuitant's death; or

29           (ii) the member's marriage to the contingent annuitant is dissolved and the beneficiary was not  
 30 granted the right to receive the optional retirement benefit as part of the dissolution settlement or a family

1 law order, in which case the benefit must revert effective on the first day of the month following receipt  
 2 of the written application and verification that the dissolution settlement or family law order does not grant  
 3 the optional benefit to the contingent annuitant.

4 (b) A regular retirement benefit provided pursuant to this subsection (5) must be increased by the  
 5 value of any postretirement adjustments received by the member since the effective date of the member's  
 6 retirement.

7 (6) A written application pursuant to subsection (5) must be filed with the board within 18 months  
 8 of the death of or dissolution of marriage to the contingent annuitant.

9 (7) (a) Upon filing a written application ~~to~~ with the board, a retired member who is receiving an  
 10 optional retirement benefit may designate a different contingent annuitant, select a different option, or  
 11 convert the member's optional retirement benefit to a regular retirement benefit if:

12 (i) the original contingent annuitant has died; or

13 (ii) the member has been divorced from the original contingent annuitant and the original contingent  
 14 annuitant has not been granted the right to receive the optional retirement benefit as part of the divorce  
 15 settlement.

16 (b) Upon receipt of the written application, the board shall actuarially adjust the member's monthly  
 17 retirement benefit to reflect the change."

18

19 **Section 50.** Section 19-5-801, MCA, is amended to read:

20 **"19-5-801. Payments upon employment-related death.** (1) If the board finds that a member died  
 21 as a direct and proximate result of injury received in the course of the member's service or duty, a  
 22 survivorship benefit must be paid to the member's designated beneficiary.

23 (2) The survivorship benefit is the greater of the following:

24 (a) the actuarial equivalent of the contingent annuitant's benefit, if applicable; or

25 (b) the a member's service retirement benefit standing to the member's credit on the date of death  
 26 or of the contingent annuitant's benefit, if applicable."

27

28 **Section 51.** Section 19-5-802, MCA, is amended to read:

29 **"19-5-802. Payments in case of death from other causes.** (1) If a retired member not covered  
 30 under 19-5-901 dies without designating a contingent annuitant under 19-5-701(2), the member's

1 designated beneficiary must be paid the amount, if any, of the member's accumulated contributions  
 2 calculated as of the day of the member's retirement minus the total of any retirement benefits already paid  
 3 from the member's account. At the designated beneficiary's request, the lump sum may be paid as an  
 4 actuarially equivalent annuity that will not be subject to increases for any purpose.

5 (2) If a retired member covered under 19-5-901 dies without designating a contingent annuitant  
 6 under 19-5-701(2), the member's designated beneficiary must be paid the amount, if any, of the member's  
 7 accumulated contributions calculated as of the day of the member's retirement minus the total of any  
 8 retirement benefits already paid from the member's account.

9 (3) If a member dies before reaching normal retirement age, the member's designated beneficiary  
 10 is entitled to a monthly survivorship benefit that is the actuarial equivalent of the involuntary retirement  
 11 ~~options~~ benefit provided in 19-5-503."

12

13 **Section 52.** Section 19-6-101, MCA, is amended to read:

14 **"19-6-101. Definitions.** Unless the context requires otherwise, the following definitions apply in  
 15 this chapter:

16 (1) "Compensation" means remuneration paid for services to a member out of funds controlled  
 17 by an employer before any pretax deductions allowed by the Internal Revenue Code have been made and  
 18 exclusive of maintenance, allowances, and expenses.

19 (2) "Dependent child" means an unmarried child of a deceased retired member, who is:

20 (a) under 18 years of age; or

21 (b) under 24 years of age and attending an accredited postsecondary educational institution as  
 22 a full-time student in anticipation of receiving a certificate or degree.

23 (3) ~~Final~~ "Highest average salary compensation" means the highest average monthly  
 24 compensation received by a member for any 3 years of continuous service upon which contributions have  
 25 been made or, in the event a member has not served 3 years, the total compensation earned divided by  
 26 the number of months served. Lump-sum payments for severance pay, sick leave, and annual leave paid  
 27 to an employee upon termination of service may be used in the calculation of a retirement benefit only to  
 28 the extent that they are used to replace, on a month-for-month basis, the normal compensation for a  
 29 month or months included in the calculation of the ~~final~~ highest average ~~salary~~ compensation. A lump-sum  
 30 payment may not be added to a single month's compensation.

1 (4) "Surviving spouse" means the spouse married to a retired member at the time of the retired  
2 member's death.

3 (5) "Survivor" means a surviving spouse or dependent child of a member."  
4

5 **Section 53.** Section 19-6-402, MCA, is amended to read:

6 **"19-6-402. Member's contribution.** (1) (a) A member not covered under 19-6-710 shall contribute  
7 into the pension trust fund 9% of the member's monthly compensation.

8 (b) A member covered under 19-6-710 shall contribute to the pension trust fund 9.05% of the  
9 member's monthly compensation.

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

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

17 (4) The member's contributions picked up by the employer must be payable from the same source  
18 as is used to pay compensation to the member and must be included in the member's wages, as defined  
19 in 19-1-102, and compensation as used to define the member's ~~final highest average salary compensation~~  
20 in 19-6-101. The employer shall deduct from the member's compensation an amount equal to the amount  
21 of the member's contributions picked up by the employer and remit the total of the contributions to the  
22 board."  
23

24 **Section 54.** Section 19-6-403, MCA, is amended to read:

25 **"19-6-403. Refund of member's contribution.** If a member willingly resigns or is discharged for  
26 cause before becoming entitled to a retirement benefit, the accumulated contributions standing to the  
27 member's credit must be paid to the member upon the member's filing of a written application ~~to~~ with the  
28 board."  
29

30 **Section 55.** Section 19-6-501, MCA, is amended to read:

1           **"19-6-501. Eligibility for service retirement benefit.** (1) A member first employed by the Montana  
2 highway patrol on or before July 1, 1985, has attained normal retirement age and is eligible to receive a  
3 service retirement benefit after completing 20 years or more of membership service and terminating  
4 service.

5           (2) A member first employed by the Montana highway patrol after July 1, 1985, has attained  
6 normal retirement age and is eligible to receive a service retirement benefit when the member has reached  
7 age 50, completed 20 years or more of membership service, and terminated service."

8

9           **Section 56.** Section 19-6-502, MCA, is amended to read:

10           **"19-6-502. Service retirement benefit.** Upon retirement from service, a member must receive a  
11 service retirement benefit equal to 2.5% of the member's ~~final~~ highest average ~~salary~~ compensation for  
12 each year of service credit."

13

14           **Section 57.** Section 19-6-505, MCA, is amended to read:

15           **"19-6-505. Payment of retirement benefits.** (1) The service retirement benefit must be paid to the  
16 retired member for the remainder of the member's life.

17           (2) Upon the retired member's death, the retirement benefit must be paid to the member's  
18 surviving spouse, if there is one.

19           (3) (a) If upon the retired member's death there is no surviving spouse or if the spouse dies, the  
20 retirement benefit must be paid as provided in subsection (3)(c) to the retired member's child, if there is  
21 one, for as long as the child remains a dependent child.

22           (b) If there is more than one dependent child, the retirement benefit must be paid as provided in  
23 subsection (3)(c) to the children collectively. When a child is no longer a dependent child, the pro rata  
24 payments to that child must cease and be made to the remaining child or children until all the children are  
25 no longer dependent.

26           (c) Payments to a dependent child must be made to the child's appointed guardian for the child's  
27 use.

28           (4) If a retired member dies without a surviving spouse or dependent child ~~and if the member had~~  
29 ~~designated a beneficiary as provided in 19-2-801,~~ the member's designated beneficiary must be paid the  
30 amount, if any, of the retired member's accumulated contributions minus the total of any retirement

1 benefits already paid from the member's account.

2 ~~(5) If the retired member did not designate a beneficiary or if the beneficiary predeceased the~~  
3 ~~retired patrol officer, the amount provided in subsection (4) must be paid to the member's estate."~~

4

5 **Section 58.** Section 19-6-601, MCA, is amended to read:

6 **"19-6-601. Disability retirement benefit.** (1) In the case of the disability of a member, a disability  
7 retirement benefit must be granted the member that is the actuarial equivalent of the service retirement  
8 benefit under 19-6-502 standing to the member's credit at the time of the member's disability retirement.  
9 If the disability is a direct result of any service to the Montana highway patrol in the line of duty, then the  
10 member who is disabled must be retired on a disability retirement benefit of one-half the member's ~~final~~  
11 highest average salary compensation regardless of the member's length of service.

12 (2) Upon the death of a retired member receiving a disability retirement benefit as provided in  
13 subsection (1), the benefit must be paid to the member's surviving spouse or dependent child, if there is  
14 a spouse or child, in the same manner as provided for in 19-6-505(2) and (3)."

15

16 **Section 59.** Section 19-6-612, MCA, is amended to read:

17 **"19-6-612. Medical examination of disability retiree -- cancellation of benefit.** (1) The board may  
18 require the recipient of a disability retirement benefit to undergo a medical examination. The examination  
19 must be made by a physician or surgeon at the recipient's place of residence or at another place mutually  
20 agreed on, at the board's expense. Upon the basis of the examination, the board shall determine whether  
21 the recipient can perform the essential elements of the position held by the recipient when the recipient  
22 retired. If the board determines that the recipient is not incapacitated, the recipient's disability retirement  
23 benefit must be canceled when the recipient is offered a position under subsection (3) or when, if a  
24 position is available, the recipient cannot be reinstated under subsection (3) for reasons unrelated to the  
25 disability. If the recipient refuses to submit to a medical examination, the recipient's disability retirement  
26 benefit must be canceled.

27 (2) If the board determines that a recipient of a disability retirement benefit should no longer be  
28 subject to medical review, the board may grant a service retirement status to the recipient without  
29 recalculating the recipient's monthly benefit. The board shall notify the recipient in writing as to the change  
30 in status. If the recipient disagrees with the board's determination, the recipient may ~~submit~~ file a written

1 application ~~to~~ with the board ~~to request~~ requesting that the board ~~to~~ reconsider its action. The request for  
 2 reconsideration must be ~~made in writing~~ filed within 60 days after receipt of the notice of the status  
 3 change.

4 (3) (a) Except as provided in subsection (3)(b), a recipient whose disability retirement benefit is  
 5 canceled because the board has determined that the recipient is no longer incapacitated must be reinstated  
 6 to the position held by the recipient immediately before the recipient's retirement or to a position in a  
 7 comparable pay and benefit category within the recipient's capacity, whichever is first open. The fact that  
 8 the recipient was retired for disability may not prejudice any right to reinstatement to duty that the  
 9 recipient may have or claim to have.

10 (b) This section does not affect any requirement that the former employee meet or be able to meet  
 11 professional certification and licensing standards unrelated to the disability and necessary for reinstatement  
 12 to duty.

13 (4) The department of justice may request a medical or psychological review as to the ability of  
 14 the recipient to return to work as a member of the highway patrol. If the board's findings are upheld, the  
 15 department of justice shall pay the cost of the review."

16

17 **Section 60.** Section 19-6-709, MCA, is amended to read:

18 **"19-6-709. (Temporary) Supplemental benefits for certain retirees.** (1) In addition to any  
 19 retirement benefit payable under this chapter, a retired member or a survivor determined by the board to  
 20 be eligible under subsection (2) must receive an annual lump-sum benefit payment beginning in September  
 21 1991 and each succeeding year as long as the member remains eligible.

22 (2) To be eligible for the benefits under this section, a person must be receiving a monthly benefit  
 23 before July 1, 1991, may not be covered by 19-6-710, and must be:

24 (a) a retired member who is 55 years of age or older and who has been receiving a service  
 25 retirement benefit for at least 5 years prior to the date of distribution;

26 (b) a survivor of a member who would have been eligible under subsection (2)(a); or

27 (c) a recipient of a disability benefit under 19-6-601 or a survivorship benefit under 19-6-601 or  
 28 19-6-901.

29 (3) A retired member otherwise qualified under this section who is employed in a position covered  
 30 by a retirement system under Title 19 is ineligible to receive any lump-sum benefit payments provided for

1 in this section until the member's service in the covered position is terminated. Upon termination of the  
 2 member's covered service, the retired member becomes eligible in the next fiscal year succeeding the  
 3 member's termination.

4 (4) (a) An amount equal to 25 cents of each motor vehicle registration fee provided for in  
 5 61-3-321(5) must be paid from the general fund to the pension trust fund at the end of each fiscal year.  
 6 The payment is statutorily appropriated, as provided in 17-7-502, to the pension fund for payment of  
 7 benefits to eligible recipients. The total funds must be distributed by the board in lump-sum payments to  
 8 eligible recipients along with their normal retirement benefit payment.

9 (b) The lump-sum payment must be distributed proportionally to all eligible recipients based on  
 10 service credit at the time of retirement, subject to the following:

11 (i) a recipient under subsection (2)(c) is considered to have 20 years of service for the purposes  
 12 of the distributions;

13 (ii) any recipient of a service retirement benefit exceeding the maximum monthly benefit under  
 14 19-6-707(2)(a) must have the recipient's service credit reduced 25% for the purposes of the distributions;

15 (iii) the maximum annual increase in the amount of supplemental benefits paid to each individual  
 16 under this section is the percentage increase for the previous calendar year in the annual average consumer  
 17 price index for urban wage earners and workers, compiled by the bureau of labor statistics of the United  
 18 States department of labor or its successor agency.

19 (c) Any amount deposited in the pension trust fund under subsection (4)(a) for the payment of  
 20 supplemental benefits under this section that exceeds the limitation of subsection (4)(b)(iii) must be used  
 21 to amortize unfunded liabilities of the retirement system.

22 (5) Every 10 years following July 1, 1991, the board shall review the size of the additional fee  
 23 collected under 61-3-321(5) and paid to the pension trust fund in accordance with subsection (4)(a) and  
 24 recommend to each legislature following the board's review any legislation necessary to reduce the fee  
 25 to the minimum amount necessary to provide the supplemental benefits provided by this section.  
 26 (Terminates upon death of last eligible recipient--sec. 1, Ch. 567, L. 1991.)"

27

28 **Section 61.** Section 19-6-801, MCA, is amended to read:

29 "**19-6-801. Election Application to qualify purchase military service.** (1) ~~A~~ Except as otherwise  
 30 provided in this section and subject to [section 65], a member with at least 15 years or more of service



1 credit ~~with the Montana highway patrol~~ may, at any time prior to retirement, ~~make file~~ a written ~~election~~  
 2 application with the board to qualify purchase all or any portion up to 5 years of the member's active  
 3 service in the armed forces of the United States for the purpose of calculating retirement benefits, ~~up to~~  
 4 ~~a maximum of 5 years, if the member is not otherwise eligible to receive service credit for this same~~  
 5 ~~service pursuant to 19-2-707.~~

6 (2) To qualify purchase this military service:

7 (a) a member who is not covered by 19-6-710 shall contribute ~~to the account~~ the amount  
 8 determined by the board to be due based on the member's compensation and regular contribution rate ~~as~~  
 9 ~~of in~~ the member's 16th year ~~and as many succeeding years as are required to qualify this service for the~~  
 10 1st year purchased and, for each subsequent year purchased, an amount based on the member's  
 11 compensation and contribution rate in each of as many years succeeding the member's 16th year as are  
 12 required to complete the purchase, with regular interest from the date the member becomes eligible for  
 13 this benefit to the date the member contributes purchase is complete. The member may not ~~qualify~~  
 14 purchase more of this military service under this subsection (2)(a) than the member has service ~~with the~~  
 15 ~~Montana highway patrol credit~~ in excess of 15 years.

16 (b) a member who is covered by 19-6-710 shall ~~contribute pay~~ the actuarial cost of the member's  
 17 military service, credit based on the system's most recent actuarial valuation of the system.

18 (3) A member is not eligible to purchase military service under this section if the member:

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

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

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

23

24 **Section 62.** Section 19-6-802, MCA, is amended to read:

25 **"19-6-802. Qualification Purchase of other Montana public service.** (1) (a) A member may, at any  
 26 time before retirement, ~~make file~~ a written ~~election~~ application with the board to qualify purchase all or  
 27 any portion of the member's service in the public employees', sheriffs', game wardens' and peace  
 28 officers', firefighters' unified, or municipal police officers' retirement system ~~for which~~ to the extent that  
 29 the member either has received or is eligible to receive a refund of the member's membership  
 30 contributions. To qualify purchase this service, the member shall ~~contribute to the pension trust fund~~ pay

1 the actuarial cost of ~~granting~~ the service credit in the highway patrol officers' retirement system, as  
 2 determined by the board, based on the system's most recent actuarial valuation minus the employer  
 3 contribution provided in subsection (1)(b).

4 (b) Upon receiving the member's payment under subsection (1)(a), the board shall transfer from  
 5 the member's former retirement system to the highway patrol officers' retirement system an amount equal  
 6 to the employer contributions made during the member's service but no more than an amount equal to the  
 7 normal contribution rate minus the employee contribution rate in the highway patrol officers' retirement  
 8 system, according to the most recent actuarial valuation.

9 (2) (a) A member may, at any time before retirement, ~~make~~ file a written ~~election application~~  
 10 the board to ~~qualify purchase all or a portion of any~~ full-time public service employment performed for the  
 11 state or a political subdivision of the state. The member shall provide compensation and employment  
 12 documentation certified by the member's public employer. The board shall grant service credit subject to  
 13 ~~the board's rules adopted by the board, upon contribution by~~ To purchase service under this section, the  
 14 employee ~~of~~ shall pay the actuarial cost of ~~granting this~~ the service in the highway patrol officers'  
 15 retirement system, as determined by the board, based on the system's most recent actuarial valuation ~~of~~  
 16 ~~the system.~~

17 (b) The board is the sole authority under this subsection (2) in determining what constitutes  
 18 full-time public service."  
 19

20 **Section 63.** Section 19-6-803, MCA, is amended to read:

21 **"19-6-803. Election Application to qualify purchase law enforcement service performed in another**  
 22 **state.** (1) ~~Except as provided in subsections (3) through (5)~~ Subject to [section 65], a member with at least  
 23 5 years or more of membership service in the retirement system credit may qualify, at any time before  
 24 retirement, file a written application with the board to purchase 1 year of out-of-state law enforcement  
 25 employment for each year of service credit ~~under the retirement system, up to a maximum of 5 years,~~  
 26 ~~provided that, unless~~ the member is ~~not~~ eligible to receive a retirement benefit in another system or plan  
 27 for that ~~out-of-state law enforcement employment~~ same service.

28 (2) To qualify purchase this service, a member shall:

29 ~~—(a) at any time before the member's retirement, make a written election with the board to qualify~~  
 30 ~~the service; and~~

1 ~~——(b) contribute to the pension trust fund~~ pay the actuarial cost of ~~granting~~ the service in the  
2 retirement system, as determined by the board, based on:

3 ~~(i)(a)~~ (a) the member's compensation for the 12 months immediately preceding the date of the  
4 member's election to cover the service under the retirement system; and

5 ~~(ii)(b)~~ (b) the actuarial rate in effect at the time of purchase of service.

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

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

13 ~~(5) The combined total service qualified under this section and military service qualified under~~  
14 ~~19-6-801 may not exceed 5 years."~~

15

16 **Section 64.** Section 19-6-804, MCA, is amended to read:

17 **"19-6-804. Election Application to purchase additional service.** (1) ~~At any time before retirement,~~  
18 ~~a member may make a written election with the board to purchase additional service credit for the purpose~~  
19 ~~of calculating the member's retirement benefit. Except as provided in subsection (3), the~~ Subject to  
20 [section 65], a member with at least 5 years of membership service may, at any time before retirement,  
21 file a written application with the board to purchase 1 year of additional service credit for every each 5  
22 years of membership service that the member has ~~qualified under~~ in the retirement system.

23 (2) ~~For each year of service credit purchased under this section~~ To purchase service under this  
24 section, a member shall ~~contribute to the pension trust fund an amount equal to~~ pay the actuarial cost of  
25 ~~granting~~ the service, based on the system's most recent actuarial valuation ~~of the system~~ as determined  
26 by the board.

27 (3) ~~A member may elect to qualify no more than a combined total of 5 years of service under~~  
28 ~~19-2-707, 19-6-801, 19-6-803, and this section.~~

29 ~~——(4)~~ Service purchased under this section is not membership service and may not be used to qualify  
30 a member for retirement or in the calculation of an actuarial reduction in benefits for a member who is not

1 eligible for normal service retirement."

2

3 **NEW SECTION. Section 65. Service purchase limitation.** A member may not purchase more than  
4 a combined total of 5 years of service under 19-6-801, 19-6-803, and 19-6-804.

5

6 **Section 66.** Section 19-6-810, MCA, is amended to read:

7 **"19-6-810. Absence ~~due to~~ because of illness or injury.** (1) Time, not to exceed 5 years, during  
8 which a member is absent from service because of injury or illness is considered membership service if,  
9 within 1 year after the end of the absence, the injury or illness is determined by the board to have arisen  
10 out of and in the course of the member's employment. However, the member may not ~~earn~~ purchase  
11 service ~~credits~~ credit for this period unless the member complies with subsections (2) through (4), in which  
12 case the absence is considered as time spent in service for both service ~~credits~~ credit and membership  
13 service.

14 (2) After returning to service and while still in service, a member desiring service credit for the  
15 period of time referred to in subsection (1) shall file with the board a written application to pay the  
16 contributions under subsection (3).

17 (3) (a) A member eligible to ~~earn~~ purchase service ~~credits~~ credit pursuant to subsection (1) shall  
18 contribute to the retirement system an amount equal to the contributions that would have been made by  
19 the member to the system during the member's period of absence on the basis of the member's  
20 compensation immediately prior to the commencement of the member's absence plus regular interest  
21 accruing from 1 year from the date after the member returns to service to the date the member contributes  
22 for the period of absence.

23 (b) If a member elects to contribute under subsection (3)(a), the employer shall contribute  
24 employer contributions for the period of absence based on the salary as calculated in subsection (3)(a) and  
25 shall pay interest on the employer's contribution calculated in the same manner as interest on the  
26 employee's contribution under subsection (3)(a). An employer electing to make an interest payment shall  
27 do so for all employees similarly situated. If the employer elects not to pay the interest costs, this amount  
28 must be paid by the employee.

29 (4) A member loses the right to contribute for an absence under this section if all of the member's  
30 accumulated contributions have been refunded pursuant to 19-2-602. The member loses the right to

1 contribute for the period of time during which retirement benefits have been received if the member retires  
2 during the absence."

3

4 **Section 67.** Section 19-6-901, MCA, is amended to read:

5 **"19-6-901. Survivorship benefits -- employment-related death.** (1) If the board finds that a  
6 member died as a direct and proximate result of injury received in the course of the member's service, a  
7 survivorship benefit must be paid to the member's surviving spouse or dependent child in the same manner  
8 as provided for in 19-6-505(2) through (4).

9 (2) The retirement benefit must equal 50% of the ~~final~~ highest average ~~salary~~ compensation of  
10 the member."

11

12 **Section 68.** Section 19-6-902, MCA, is amended to read:

13 **"19-6-902. Survivorship benefits -- death from other causes.** If a an active or inactive member  
14 dies before reaching retirement age, the member's surviving spouse or dependent child must be paid a  
15 survivorship benefit that is the actuarial equivalent of the early retirement benefit provided in 19-6-503,  
16 in the same manner as provided for in 19-6-505(2) through (4)."

17

18 **Section 69.** Section 19-6-903, MCA, is amended to read:

19 **"19-6-903. Death payments in absence of survivors.** ~~If upon the member's death before~~  
20 ~~retirement there is no surviving spouse or dependent child and if the member had designated a beneficiary~~  
21 ~~as provided in 19-2-801, after a member's death, a benefit is not paid pursuant to 19-6-505, 19-6-601,~~  
22 19-6-901, or 19-6-902, then the member's designated beneficiary must be paid an amount equal to the  
23 member's accumulated contributions minus the total of any benefits already paid from the member's  
24 account. ~~If there is no designated beneficiary, death payments must be paid to the member's estate."~~

25

26 **Section 70.** Section 19-7-101, MCA, is amended to read:

27 **"19-7-101. Definitions.** Unless the context requires otherwise, the following definitions apply in  
28 this chapter:

29 (1) "Compensation" means remuneration paid for services to a member out of funds controlled  
30 by an employer before any pretax deductions allowed by the Internal Revenue Code are made and

1 exclusive of maintenance, allowances, and expenses.

2 (2) "~~Final~~ "Highest average salary compensation" means the highest average monthly  
3 compensation received by a member for any 3 years of continuous service from which contributions were  
4 deducted or, in the event that a member has not served 3 years, the total compensation earned divided  
5 by the number of months served. Lump-sum payments for sick leave and annual leave paid to an employee  
6 upon termination of employment may be used in the calculation of a retirement benefit only to the extent  
7 that they are used to replace, on a month-for-month basis, the normal compensation for a month or  
8 months included in the calculation of the ~~final~~ highest average salary compensation. A lump-sum payment  
9 may not be added to a single month's compensation.

10 (3) "Investigator" means a person who is employed as a criminal investigator or as a gambling  
11 investigator for the department of justice.

12 (4) "Sheriff" means any elected or appointed county sheriff or undersheriff or any appointed,  
13 lawfully trained, appropriately salaried, and regularly acting deputy sheriff with the requisite professional  
14 certification and licensing. ~~The board shall adopt rules incorporating both the peace officers standards and~~  
15 ~~training council's current law enforcement training requirements and the legislatively authorized salary~~  
16 ~~requirements as effective for deputy sheriffs who are eligible for membership in this retirement system."~~

17

18 **Section 71.** Section 19-7-301, MCA, is amended to read:

19 **"19-7-301. Membership -- inactive vested members -- inactive nonvested members.** (1) Each (a)  
20 Except as provided in subsection (1)(b), each sheriff ~~is required to~~ shall become a member of the sheriffs'  
21 retirement system ~~unless the~~.

22 (b) A sheriff who was a member of the public employees' retirement system on July 1, 1974, ~~in~~  
23 ~~which case the sheriff may at the sheriff's option remain a public employees' retirement system member~~  
24 or elect to become a member of the sheriffs' retirement system by filing a written election with the board  
25 at any time before retirement.

26 (2) ~~An~~ (a) Except as provided in subsection (2)(b), an investigator ~~is required to~~ must become a  
27 member of the sheriffs' retirement system.

28 (b) ~~unless the~~ An investigator who was a member of the public employees' retirement system on  
29 July 1, 1993, ~~in which case the investigator has the option of becoming~~ may remain in the public  
30 employees' retirement system or elect to become a member of the sheriffs' retirement system by filing

1 a written election with the board at any time before retirement.

2 (3) A member of the public employees' retirement system who begins employment in a position  
 3 covered by the sheriffs' retirement system may remain in the public employees' retirement system or may  
 4 elect to become a member of the sheriffs' retirement system by filing a written election with the board  
 5 no later than 30 days after beginning the employment.

6 ~~(4) All sheriffs and investigators~~ A sheriff or investigator who elects to become members a  
 7 member of the sheriffs' retirement system shall remain must be an active members so member as long as  
 8 ~~they are~~ actively employed in an eligible capacity, except as provided in 19-7-1101(2).

9 ~~(4)(5)~~ (5) A member with at least 5 years of membership service who terminates service and does not  
 10 take a refund of the member's accumulated contributions is an inactive vested member and retains the  
 11 right to purchase service and to receive a retirement benefit under the provisions of this chapter.

12 ~~(5)(6)~~ (6) A member with less than 5 years of membership service who terminates service and leaves  
 13 the member's accumulated contributions in the pension trust fund is an inactive nonvested member and  
 14 is not eligible for any benefits from the retirement system. An inactive nonvested member is eligible only  
 15 for a refund of the member's accumulated contributions."

16

17 **Section 72.** Section 19-7-403, MCA, is amended to read:

18 **"19-7-403. Member's contributions deducted.** (1) Each member shall contribute into the pension  
 19 trust fund 9.245% of the member's monthly compensation, which must be deposited to the member's  
 20 credit in the pension trust fund.

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

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

28 (4) The member's contributions picked up by the employer must be payable from the same source  
 29 as is used to pay compensation to the member and must be included in the member's wages, as defined  
 30 in 19-1-102, and salary as used to define the member's ~~final~~ highest average salary compensation in

1 19-7-101. The employer shall deduct from the member's compensation an amount equal to the amount  
2 of the member's contributions picked up by the employer and remit the total of the contributions to the  
3 board."

4

5 **Section 73.** Section 19-7-501, MCA, is amended to read:

6 **"19-7-501. Eligibility for service retirement.** A member who has completed at least 20 years of  
7 membership service has attained normal retirement age and may retire on a service retirement benefit."

8

9 **Section 74.** Section 19-7-503, MCA, is amended to read:

10 **"19-7-503. Service retirement benefit.** (1) The amount of any service retirement benefit granted  
11 to a member is 2.5% of the member's ~~final~~ highest average ~~salary~~ compensation for each year of service  
12 credit.

13 (2) If a retired member dies without designating a contingent annuitant under 19-7-1001, the  
14 member's designated beneficiary must be paid the amount, if any, of the member's accumulated  
15 contributions calculated as of the day of the member's retirement minus the total of any retirement  
16 benefits already paid from the member's account."

17

18 **Section 75.** Section 19-7-601, MCA, is amended to read:

19 **"19-7-601. Disability retirement benefit.** In the case of the disability of a member, regardless of  
20 the member's length of service, a disability retirement benefit must be awarded to the member based on  
21 the actuarial equivalent of the member's service retirement benefit under 19-7-503 standing to the  
22 member's credit at the time of the member's disability retirement. If the disability is a direct result of the  
23 member's service as a member in the line of duty, then the member must be awarded a benefit of one-half  
24 of the member's ~~final~~ highest average ~~salary~~ compensation."

25

26 **Section 76.** Section 19-7-801, MCA, is amended to read:

27 **"19-7-801. Membership in municipal police officers' retirement system prior to or following**  
28 **city-county consolidation -- payment of benefits by two systems.** (1) A law enforcement officer who has  
29 not changed employment but who has, because of a city-county consolidation, been transferred either  
30 from a city police force to a county sheriff's department or from a county sheriff's department to a city



1 police force as a law enforcement officer is eligible for a service retirement benefit if the officer's combined  
2 service in the sheriffs' retirement system and the municipal police officers' retirement system satisfies the  
3 minimum membership service requirement of the system to which the officer last made contributions. A  
4 member who has elected to continue membership in the public employees' retirement system under  
5 19-7-301 may continue the election. However, credit for service in the public employees' retirement  
6 system that has not been transferred prior to January 1, 1979, may not be transferred.

7 (2) A member of the municipal police officers' retirement system who begins employment in a  
8 position covered by the sheriffs' retirement system following a city-county consolidation may remain in  
9 the municipal police officers' retirement system or elect to become a member of the sheriffs' retirement  
10 system by filing a written election with the board no later than 30 days after beginning the employment.

11 (3) Eligibility for and calculation of disability retirement, death benefits, and refund of contributions  
12 are governed by the provisions of the retirement system to which the officer last made contributions.

13 ~~(3)~~(4) The service retirement benefit of a member described in subsection (1) must be calculated  
14 separately for each system based on the service credited under each system. The calculation for the  
15 sheriffs' retirement system portion of the benefit must include the appropriate reduction in the retirement  
16 benefit for an optional retirement benefit elected under 19-7-1001. The final salary or ~~final~~ highest average  
17 salary compensation for each calculation must be based on the highest compensation earned while a  
18 member of either system. Each system shall pay its proportionate share, based on the number of years  
19 of service credited, of the combined benefit.

20 ~~(4)~~(5) Upon the death of a retired member receiving a service retirement benefit under this section,  
21 the survivor or contingent annuitant and the continuing benefit must be determined separately for each  
22 system as follows:

23 (a) For the municipal police officers' retirement system portion of the benefit, the surviving spouse  
24 must receive a benefit equal to the municipal police officers' retirement system portion of the service  
25 retirement benefit as calculated at the time of the member's retirement. If the retired member leaves no  
26 surviving spouse or upon the death of the surviving spouse, the retired member's surviving dependent  
27 child, or children collectively if there are more than one, ~~shall~~ must receive the same monthly benefits that  
28 a surviving spouse would receive for as long as the child or one of the children remains dependent, as  
29 defined in 19-9-104. The benefits must be made to the child's appointed guardian for the child's use. If  
30 there is more than one dependent child, upon each child no longer qualifying as dependent under

1 19-9-104, the pro rata benefits to that child must cease and be paid to the remaining children until all the  
2 children are no longer dependent.

3 (b) For the sheriffs' retirement system portion of the benefit:

4 (i) the contingent annuitant must receive a continuing benefit as determined under 19-7-1001, if  
5 the retired member elected an optional retirement benefit; or

6 (ii) if the retired member did not elect an optional retirement benefit, any payment owed the retired  
7 member, including the excess, if any, of the retired member's accumulated contributions standing to the  
8 retired member's credit at the time of retirement less payments made to the retired member must be paid  
9 to the retired member's designated beneficiary."

10

11 **Section 77.** Section 19-7-802, MCA, is amended to read:

12 **"19-7-802. Qualification Purchase of other Montana public service.** (1) (a) A member may, at any  
13 time before retirement, ~~make file~~ a written ~~election~~ application with the board to ~~qualify purchase~~ all or  
14 any portion of the member's service in the public employees', highway patrol officers', firefighters' unified,  
15 game wardens' and peace officers', or municipal police officers' retirement system ~~for which~~ to the extent  
16 that the member either has received or is eligible to receive a refund of the member's membership  
17 contributions. To ~~qualify purchase~~ this service, the member shall ~~contribute to the pension trust fund~~ pay  
18 the actuarial cost of ~~granting~~ the service in the sheriffs' retirement system, as determined by the board,  
19 based on the system's most recent actuarial valuation minus the employer contribution provided in  
20 subsection (1)(b).

21 (b) Upon receiving the member's payment under subsection (1)(a), the board shall transfer from  
22 the member's former retirement system to the sheriffs' retirement system an amount equal to the  
23 employer contributions made during the member's service but no more than an amount equal to the normal  
24 contribution rate minus the employee contribution rate in the sheriffs' retirement system, according to the  
25 most recent actuarial valuation, based on the compensation earned by the employee as a member of the  
26 former system.

27 (2) (a) A member may, at any time before retirement, ~~make file~~ a written ~~election~~ application with  
28 the board to ~~qualify any purchase all or a portion of~~ full-time public service employment performed for the  
29 state or a political subdivision of the state. The member shall provide compensation and employment  
30 documentation certified by the member's public employer. ~~The board shall grant service credit upon~~

1 ~~contribution by~~ To purchase service under this section, the employee ~~of~~ shall pay the actuarial cost of  
 2 ~~granting this~~ the service in the sheriffs' retirement system, as determined by the board, based on the  
 3 system's most recent actuarial valuation ~~of the system.~~

4 (b) The board is the sole authority under this subsection (2) in determining what constitutes  
 5 full-time public service."

6

7 **Section 78.** Section 19-7-803, MCA, is amended to read:

8 **"19-7-803. Election Application to qualify purchase previous military service.** (1) ~~A~~ Except as  
 9 otherwise provided in this section and subject to [section 80], a member with at least 15 years ~~or more~~  
 10 of service credit may, at any time prior to retirement, ~~make~~ file a written ~~election~~ application with the  
 11 board to ~~qualify all or any portion~~ purchase up to 5 years of the member's active service in the armed  
 12 forces of the United States for the purpose of calculating retirement benefits, ~~up to a maximum of 5 years,~~  
 13 ~~except as provided in subsection (3), if the member is not otherwise eligible to receive credit.~~

14 (2) ~~To qualify purchase this~~ to qualify purchase this military service, the member shall ~~contribute to the account~~ pay the  
 15 actuarial cost of ~~granting the~~ the member's military service, ~~to be determined by the board~~ based on the ~~the~~  
 16 system's most recent actuarial valuation ~~of the system.~~ ~~The member may not qualify more of the~~  
 17 ~~member's military service than the member has service credits in the sheriffs' retirement system in excess~~  
 18 ~~of 15 years. Military service purchased under this section is not membership service and may not be used~~  
 19 ~~in determining eligibility for a service retirement benefit.~~

20 ~~(2)(3)~~ If a ~~A~~ member is not eligible to purchase military service under this section if the member:

21 (a) has retired from active duty in the armed forces of the United States with military retirement  
 22 ~~benefits, the member may not qualify the member's military service under subsection (1)~~ based on that  
 23 military service;

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

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

26 ~~(3) The combined total purchase of additional years of service under the provisions of 19-7-804~~  
 27 ~~and this section may not exceed 5 years.~~

28 (4) Military service purchased under this section is not membership service and may not be used  
 29 in determining the member's eligibility for a service retirement benefit."

30

1           **Section 79.** Section 19-7-804, MCA, is amended to read:

2           "**19-7-804. Election Application to purchase additional service.** (1) ~~Except as provided in~~  
3 ~~subsection (5) Subject to [section 80], at any time before retirement,~~ a member with at least 5 years of  
4 membership service may ~~make,~~ at any time before retirement, file a written ~~election~~ application with the  
5 board to purchase 1 additional year of service credit for ~~every~~ each 5 years of membership service.

6           ~~(2) Service purchased under this section must be credited for the purpose of meeting retirement~~  
7 ~~eligibility and for calculating retirement benefits.~~

8           ~~——(3) To qualify purchase this service under this section,~~ a member shall:

9           ~~——(a) make a written election with the board to qualify the service; and~~

10           ~~——(b) contribute to the pension trust fund pay~~ the actuarial cost of ~~granting~~ the service in the sheriffs'  
11 retirement system, as determined by the board, based on the system's most recent actuarial valuation ~~of~~  
12 ~~the system.~~

13           ~~(4)(3) Service qualified purchased~~ under this section may not be used to qualify a member for the  
14 purchase of military service under 19-7-803.

15           (4) Service purchased under this section must be credited for the purpose of meeting retirement  
16 eligibility and for calculating retirement benefits.

17           ~~(5) The combined total of additional years of service purchased under the provisions of 19-7-803~~  
18 ~~and this section may not exceed 5 years."~~

19

20           NEW SECTION. Section 80. Service purchase limitation. A member may not purchase a combined  
21 total of more than 5 years of service under 19-7-803 and 19-7-804.

22

23           **Section 81.** Section 19-7-810, MCA, is amended to read:

24           "**19-7-810. Absence ~~due to~~ because of illness or injury.** (1) Time, not to exceed 5 years, during  
25 which a member is absent from service because of injury or illness is considered membership service if,  
26 within 1 year after the end of the absence, the injury or illness is determined by the board to have arisen  
27 out of and in the course of the member's employment. However, the member may not ~~earn~~ purchase  
28 service ~~credits~~ credit for this period unless the member complies with subsections (2) through (4), in which  
29 case the absence is considered as time spent in service for both service ~~credits~~ credit and membership  
30 service.

1 (2) After returning to service and while still in service, a member desiring service credit for the  
 2 period of time referred to in subsection (1) shall file with the board a written application to pay the  
 3 contributions under subsection (3).

4 (3) (a) A member eligible to ~~earn~~ purchase service ~~credits~~ credit pursuant to subsection (1) shall  
 5 contribute to the retirement system an amount equal to the contributions that would have been made by  
 6 the member to the system during the member's period of absence on the basis of the member's  
 7 compensation immediately prior to the commencement of the member's absence plus regular interest  
 8 accruing from 1 year from the date after the member returns to service to the date the member contributes  
 9 for the period of absence.

10 (b) If a member elects to contribute under subsection (3)(a), the employer shall contribute  
 11 employer contributions for the period of absence based on the salary as calculated in subsection (3)(a) and  
 12 shall pay interest on the employer's contribution calculated in the same manner as interest on the  
 13 employee's contribution under subsection (3)(a). An employer electing to make an interest payment shall  
 14 do so for all employees similarly situated. If the employer elects not to pay the interest costs, this amount  
 15 must be paid by the employee.

16 (4) A member loses the right to contribute for an absence under this section if all of the member's  
 17 accumulated contributions have been refunded pursuant to 19-2-602. The member loses the right to  
 18 contribute for the period of time during which retirement benefits have been received if the member retires  
 19 during the absence."

20

21 **Section 82.** Section 19-7-901, MCA, is amended to read:

22 **"19-7-901. Payments in case of death before retirement.** If a member dies before retirement, the  
 23 member's designated beneficiary may elect one of the following options for which the member qualified  
 24 and for which the designated beneficiary qualifies:

25 (1) a lump-sum payment of the accumulated contributions standing to the member's credit at the  
 26 member's death;

27 (2) a survivorship benefit equal to 2.5% of the member's ~~final~~ highest average ~~salary~~  
 28 compensation for each year of service credit actuarially reduced from age 65 or the date on which the  
 29 member would have completed 20 years of membership service, whichever provides a larger retirement  
 30 benefit; or

1 (3) a survivorship benefit that is no less than one-half of the member's ~~final~~ highest average salary  
 2 compensation if the board finds that the member died as a direct and proximate result of injuries received  
 3 in the course of employment."

4

5 **Section 83.** Section 19-7-1001, MCA, is amended to read:

6 **"19-7-1001. Optional forms of benefits -- designation of contingent annuitant.** (1) The retirement  
 7 benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be  
 8 converted, in lieu of all other benefits under this chapter, into an optional retirement benefit that is the  
 9 actuarial equivalent of the original benefit. The optional retirement benefit is initially payable during the  
 10 member's or designated beneficiary's lifetime with a subsequent benefit to ~~the a~~ a contingent annuitant that  
 11 ~~the member or designated beneficiary nominated by written application, executed and filed with the board~~  
 12 ~~with the application for benefits~~, as follows:

13 (a) ~~Option option~~ 2--a continuation of the reduced amount after the death of the initial payee and  
 14 payable during the lifetime of the named contingent annuitant;

15 (b) ~~Option option~~ 3--a continuation of one-half of the reduced amount after the death of the initial  
 16 payee and payable during the lifetime of the named contingent annuitant;

17 (c) ~~Option option~~ 4--upon the initial payee's death, other actuarially equivalent amounts payable  
 18 to a contingent annuitant as may be approved by the board.

19 (2) ~~Election of~~ The member or the designated beneficiary who elects an optional retirement benefit  
 20 ~~must be by~~ shall file a written application ~~filed~~ with the board prior to the first payment of the benefit. A  
 21 contingent annuitant must be identified on the application.

22 (3) If a benefit recipient or the recipient's contingent annuitant dies before the first payment has  
 23 been made under option 2 or 3, the election of the option is automatically canceled.

24 (4) If the member dies after retirement and within 30 days from the date that the member's  
 25 ~~election~~ written application electing or ~~changed~~ changing an election of an optional retirement benefit is  
 26 received by the board, the election is void ~~and the death is considered as that of a member before~~  
 27 retirement.

28 (5) (a) A retired member receiving an optional retirement benefit pursuant to subsection (1)(a) or  
 29 (1)(b) that is initially effective on or after October 1, 1999, may file a written application with the board  
 30 to have the optional retirement benefit revert to the regular retirement benefit available at the time of the

1 member's retirement if:

2 (i) the contingent annuitant has died, in which case the optional benefit must revert effective on  
3 the first day of the month following the contingent annuitant's death; or

4 (ii) the member's marriage to the contingent annuitant is dissolved and the beneficiary was not  
5 granted the right to receive the optional retirement benefit as part of the dissolution settlement or a family  
6 law order, in which case the benefit must revert effective on the first day of the month following receipt  
7 of the written application and verification that the dissolution settlement or family law order does not grant  
8 the optional benefit to the contingent annuitant.

9 (b) A regular retirement benefit provided pursuant to this subsection (5) must be increased by the  
10 value of any postretirement adjustments received by the member since the effective date of the member's  
11 retirement.

12 (6) A written application pursuant to subsection (5) must be filed with the board within 18 months  
13 of the death of or dissolution of marriage to the contingent annuitant.

14 (7) (a) Upon filing a written application ~~to~~ with the board, a retired member who is receiving an  
15 optional retirement benefit may designate a different contingent annuitant, select a different option, or  
16 convert the member's optional retirement benefit to a regular retirement benefit if:

17 (i) the original contingent annuitant has died; or

18 (ii) the member has been divorced from the original contingent annuitant and the original contingent  
19 annuitant has not been granted the right to receive the optional retirement benefit as part of the divorce  
20 settlement.

21 (b) Upon receipt of the written application, the board shall actuarially adjust the member's monthly  
22 retirement benefit to reflect the change."

23

24 **Section 84.** Section 19-7-1101, MCA, is amended to read:

25 **"19-7-1101. Reemployment of a retired member.** (1) A retired member who returns to service for  
26 ~~at least 60 or more~~ working days in a calendar year ~~is shall become~~ an active member of the system. Upon  
27 reinstatement as an active member, benefit payments must cease until subsequent retirement.

28 (2) A retired member who returns to service for less than 60 working days in a calendar year ~~is~~  
29 ~~excluded from membership~~ may not become an active member. The retirement benefit of a retired member  
30 employed in service must be reduced by \$1 for each \$3 earned in excess of \$5,000 in a calendar year."

1

2           **Section 85.** Section 19-8-101, MCA, is amended to read:

3           **"19-8-101. Definitions.** Unless the context requires otherwise, the following definitions apply in  
4 this chapter:

5           (1) "Compensation" means remuneration paid for services to a member out of funds controlled  
6 by an employer before any pretax deductions allowed by the Internal Revenue Code are made and  
7 exclusive of maintenance, allowances, and expenses.

8           (2) ~~"Final "~~**"Highest average salary compensation"** means the highest average monthly  
9 compensation received by a member for any 3 years of continuous service upon which contributions were  
10 made or, in the event a member has not served 3 years, the total compensation earned divided by the  
11 number of months served. Lump-sum payments for severance pay, sick leave, and annual leave paid to  
12 an employee upon termination of employment may be used in the calculation of a retirement benefit only  
13 to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a  
14 month or months included in the calculation of the ~~final~~ highest average ~~salary~~ compensation. A lump-sum  
15 payment may not be added to a single month's compensation.

16           (3) "Game warden" means a state fish and game warden hired by the department of fish, wildlife,  
17 and parks and includes all warden supervisory personnel whose salaries or compensation is paid out of the  
18 department of fish, wildlife, and parks money.

19           (4) "Motor carrier officer" means an employee of the department of transportation appointed as  
20 a peace officer pursuant to 61-12-201.

21           (5) "Peace officer" or "state peace officer" means a person who by virtue of the person's  
22 employment with the state is vested by law with a duty to maintain public order or make arrests for  
23 offenses while acting within the scope of the person's authority or who is charged with specific law  
24 enforcement responsibilities on behalf of the state."

25

26           **Section 86.** Section 19-8-302, MCA, is amended to read:

27           **"19-8-302. Public employees' retirement system -- transfer of membership.** (1) Except as provided  
28 in subsections (2) and (4), an eligible peace officer shall become a member of the game wardens' and  
29 peace officers' retirement system on the first day of covered service.

30           (2) A member of the public employees' retirement system who first becomes eligible for



1 membership in the game wardens' and peace officers' retirement system on July 1, 1997, may elect to  
 2 become a member of the retirement system or may continue membership in the public employees'  
 3 retirement system by ~~submitting~~ filing a written election ~~of intent to~~ with the board no later than December  
 4 31, 1997.

5 (3) A person who is a member of the game wardens' and peace officers' retirement system  
 6 assigned to law enforcement who transfers to a position involving duties other than law enforcement  
 7 within the same state agency may retain membership in the retirement system by filing a written election  
 8 ~~of intent~~ with the board no later than 30 days after transfer to the new position.

9 (4) A person who is a member of the public employees' retirement system who transfers to a  
 10 position covered by the game wardens' and peace officers' retirement system may elect to become a  
 11 member of the retirement system or may continue membership in the public employees' retirement system  
 12 by filing a written election ~~of intent~~ with the board no later than 30 days after transfer to the new  
 13 position."  
 14

15 **Section 87.** Section 19-8-308, MCA, is amended to read:

16 "**19-8-308. Transfer of ~~membership -- qualification of previous service.~~** A person who elects to  
 17 become a member of the game wardens' and peace officers' retirement system pursuant to 19-8-302 may  
 18 transfer the member's ~~creditable~~ service in the public employees' retirement system into the game  
 19 wardens' and peace officers' retirement system under the provisions of 19-8-902."  
 20

21 **Section 88.** Section 19-8-502, MCA, is amended to read:

22 "**19-8-502. Member's contribution.** (1) Each member is required to contribute into the pension  
 23 trust fund 8.5% of the member's monthly compensation, which must be deposited to the member's credit  
 24 in the pension trust fund.

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

28 (3) The member's contributions picked up by the employer must be designated for all purposes  
 29 of the retirement system as the member's contributions, except for the determination of a tax upon a  
 30 distribution from the retirement system. These contributions must become part of the member's

1 accumulated contributions but must be accounted for separately from those previously accumulated.

2 (4) The member's contributions picked up by the employer must be payable from the same source  
3 as is used to pay compensation to the member and must be included in the member's wages, as defined  
4 in 19-1-102, and the member's compensation as used to define the member's ~~final~~ highest average salary  
5 compensation in 19-8-101. The employer shall deduct from the member's compensation an amount equal  
6 to the amount of the member's contributions picked up by the employer and remit the total of the  
7 contributions to the board."

8

9 **Section 89.** Section 19-8-601, MCA, is amended to read:

10 "**19-8-601. Time of retirement.** A member ~~in service~~ who has completed at least 20 years of  
11 membership service, and reached the age of 50 years, ~~and terminated service~~ has attained normal  
12 retirement age and may retire with a service retirement benefit ~~upon~~ by filing a written application ~~to~~ with  
13 the board."

14

15 **Section 90.** Section 19-8-603, MCA, is amended to read:

16 "**19-8-603. Service retirement benefit.** The service retirement benefit is equal to 2% of the  
17 member's ~~final~~ highest average salary compensation for each year of service credit."

18

19 **Section 91.** Section 19-8-701, MCA, is amended to read:

20 "**19-8-701. Disability retirement benefit.** (1) A member who is determined by the board to be  
21 disabled must be granted a disability retirement benefit in an amount calculated on the actuarial equivalent  
22 of the service retirement benefit standing to the member's credit at the time of the member's disability  
23 retirement.

24 (2) If the disability is a direct result of any service to the state in the line of duty and the member  
25 has at least 5 years of membership service, the member who is disabled must be retired on a disability  
26 retirement benefit of not less than one-half of the member's ~~final~~ highest average salary compensation."

27

28 **Section 92.** Section 19-8-712, MCA, is amended to read:

29 "**19-8-712. Medical examination of disability retiree -- cancellation of benefit.** (1) The board, in  
30 its discretion, may require the recipient of a disability retirement benefit to undergo a medical examination.

1 The examination must be made by a physician or surgeon at the recipient's place of residence or at  
2 another place mutually agreed on, at the board's expense. Upon the basis of the examination, the board  
3 shall determine, by reason of physical or mental capacity, whether the recipient can perform the essential  
4 elements of the position held by the recipient when the recipient retired. If the board determines that the  
5 recipient is not incapacitated, the recipient's disability retirement benefit must be canceled when the  
6 recipient is offered a position under subsection (3) or when, if a position is available, the recipient cannot  
7 be reinstated under subsection (3) for reasons unrelated to the disability. If the recipient refuses to submit  
8 to a medical examination, the recipient's disability retirement benefit must be canceled when the recipient  
9 is notified of the determination of the board.

10 (2) If the board determines that a recipient of a disability retirement benefit should no longer be  
11 subject to medical review, the board may grant a service retirement status to the recipient without  
12 recalculating the recipient's monthly benefit. The board shall notify the recipient in writing as to the change  
13 in status. If the recipient disagrees with the board's determination, the recipient may ~~submit~~ file a written  
14 application ~~to~~ with the board ~~to request~~ requesting that the board ~~to~~ reconsider its action. The request for  
15 reconsideration must be ~~made in writing~~ filed within 60 days after receipt of the notice of the status  
16 change.

17 (3) (a) Except as provided in subsection (3)(b), a recipient whose disability retirement benefit is  
18 canceled because the board has determined that the recipient is no longer incapacitated must be reinstated  
19 to the position held by the recipient immediately before the recipient's retirement or to a position in a  
20 comparable pay and benefit category within the recipient's capacity, whichever is first open. The fact that  
21 the recipient was retired for disability may not prejudice any right to reinstatement to duty that the  
22 recipient may have or claim to have.

23 (b) This section does not affect any requirement that the former employee meet or be able to meet  
24 professional certification and licensing standards unrelated to the disability and necessary for  
25 reinstatement.

26 (4) The member's former employer may request a medical or psychological review as to the ability  
27 of the recipient to return to work as a peace officer. If the board's findings are upheld, the former employer  
28 shall pay the cost of the review."

29

30 **Section 93.** Section 19-8-801, MCA, is amended to read:

1           **"19-8-801. Optional forms of benefits -- designation of contingent annuitant.** (1) The retirement  
 2 benefit of a member or the survivorship benefit of a designated beneficiary who so elects must ~~be~~  
 3 ~~converted,~~ in lieu of all other benefits under this chapter, be converted into an optional retirement benefit  
 4 that is the actuarial equivalent of the original benefit. The optional retirement benefit is initially payable  
 5 during the member's or designated beneficiary's lifetime with a subsequent benefit to ~~the a~~ contingent  
 6 annuitant ~~that the member or designated beneficiary nominated by written designation, executed and filed~~  
 7 ~~with the board on the application for benefits,~~ as follows:

8           (a) ~~Option~~ option 2--a continuation of the reduced amount after the death of the initial payee and  
 9 payable during the lifetime of the named contingent annuitant;

10           (b) ~~Option~~ option 3--a continuation of one-half of the reduced amount after the death of the initial  
 11 payee and payable during the lifetime of the named contingent annuitant;

12           (c) ~~Option~~ option 4--upon the initial payee's death, other actuarially equivalent amounts payable  
 13 to a contingent annuitant as may be approved by the board.

14           (2) ~~Election of~~ The member or the designated beneficiary who elects an optional retirement benefit  
 15 ~~must be by~~ shall file a written application filed with the board prior to the first payment of the benefit. A  
 16 contingent annuitant must be identified on the application.

17           (3) If a benefit recipient or the recipient's contingent annuitant dies before the first payment has  
 18 been made under option 2 or 3, the election of the option is automatically canceled.

19           (4) If the member dies after retirement and within 30 days from the date that the member's  
 20 ~~election~~ written application electing or ~~changed~~ changing an election of an optional retirement benefit is  
 21 received by the board, the election is void ~~and the death is considered as that of a member before~~  
 22 retirement.

23           (5) (a) A retired member receiving an optional retirement benefit pursuant to subsection (1)(a) or  
 24 (1)(b) that is initially effective on or after October 1, 1999, may file a written application with the board  
 25 to have the optional retirement benefit revert to the regular retirement benefit available at the time of the  
 26 member's retirement if:

27           (i) the contingent annuitant has died, in which case the optional benefit must revert effective on  
 28 the first day of the month following the contingent annuitant's death; or

29           (ii) the member's marriage to the contingent annuitant is dissolved and the beneficiary was not  
 30 granted the right to receive the optional retirement benefit as part of the dissolution settlement or a family

1 law order, in which case the benefit must revert effective on the first day of the month following receipt  
 2 of the written application and verification that the dissolution settlement or family law order does not grant  
 3 the optional benefit to the contingent annuitant.

4 (b) A regular retirement benefit provided pursuant to this subsection (5) must be increased by the  
 5 value of any postretirement adjustments received by the member since the effective date of the member's  
 6 retirement.

7 (6) A written application pursuant to subsection (5) must be filed with the board within 18 months  
 8 of the death of or dissolution of marriage to the contingent annuitant.

9 (7) (a) Upon filing a written application ~~to~~ with the board, a retired member who is receiving an  
 10 optional retirement benefit may designate a different contingent annuitant, select a different option, or  
 11 convert the member's optional retirement benefit to a regular retirement benefit if:

12 (i) the original contingent annuitant has died; or

13 (ii) the member has been divorced from the original contingent annuitant and the original contingent  
 14 annuitant has not been granted the right to receive the optional retirement benefit as part of the divorce  
 15 settlement.

16 (b) Upon receipt of the written application, the board shall actuarially adjust the member's monthly  
 17 retirement benefit to reflect the change."

18

19 **Section 94.** Section 19-8-901, MCA, is amended to read:

20 "**19-8-901. Election Application to qualify purchase military service.** (1) ~~A (a) Except as otherwise~~  
 21 provided in this section and subject to [section 98], a member with at least 15 years or more of service  
 22 credit qualified under this chapter may, at any time prior to retirement, make file a written application with  
 23 the board to qualify all or any portion purchase up to 5 years of the member's active service in the armed  
 24 forces of the United States for the purpose of calculating retirement benefits, ~~up to a maximum of 5 years,~~  
 25 ~~if the member is not otherwise eligible to receive credit for this service.~~

26 ~~(2)(b) To qualify purchase this military service, the member shall contribute to the pension trust~~  
 27 ~~fund pay~~ the actuarial cost of granting the member's military service, based on the system's most recent  
 28 actuarial valuation ~~of the system~~ as determined by the board. ~~The member may not qualify more years of~~  
 29 ~~military service than the member has years of service credits in excess of 15 years.~~

30 (2) A member is not eligible to purchase military service under this section if the member:

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

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

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

5

6 **Section 95.** Section 19-8-902, MCA, is amended to read:

7 **"19-8-902. ~~Qualification~~ Purchase of other Montana public service.** (1) (a) A member may, at any  
 8 time before retirement, ~~make file~~ a written ~~election~~ application with the board to ~~qualify purchase~~ all or  
 9 any portion of the member's service credit in the public employees', highway patrol officers', firefighters'  
 10 unified, sheriffs', or municipal police officers' retirement system ~~for which~~ to the extent that the member  
 11 either has received or is eligible to receive a refund of the member's accumulated contributions. To ~~qualify~~  
 12 purchase this service, the member shall ~~contribute to the pension trust fund~~ pay the actuarial cost of  
 13 ~~granting~~ the service in the game wardens' and peace officers' retirement system, as determined by the  
 14 board, based on the system's most recent actuarial valuation ~~of the system~~ minus the employer  
 15 contribution provided in subsection (1)(b).

16 (b) Upon receiving the member's payment under subsection (1)(a), the board shall transfer from  
 17 the member's former retirement system to the game wardens' and peace officers' retirement system an  
 18 amount equal to the employer contributions made during the member's service but no more than an  
 19 amount equal to the normal contribution rate minus the employee contribution rate in the game wardens'  
 20 and peace officers' retirement system, according to the most recent actuarial valuation, based on the  
 21 salaries earned by the employee as a member of the former system.

22 (2) (a) A member may, at any time before retirement, ~~make file~~ a written ~~election~~ application with  
 23 the board to ~~qualify any purchase all or a portion of~~ full-time public service employment performed for the  
 24 state or a political subdivision of the state. The member shall provide salary and employment  
 25 documentation certified by the member's public employer. The board shall grant service credit subject to  
 26 ~~the board's rules adopted by the board, upon contribution by~~ To purchase service under this section, the  
 27 employee ~~of~~ shall pay the actuarial cost of ~~granting this~~ the service in the game wardens' and peace  
 28 officers' retirement system, as determined by the board, based on the system's most recent actuarial  
 29 valuation ~~of the system~~.

30 (b) The board is the sole authority under this subsection (2) in determining what constitutes

1 full-time public service."

2

3 **Section 96.** Section 19-8-903, MCA, is amended to read:

4 **"19-8-903. Employment in United States government.** (1) A member who is assigned to an  
5 agency of the United States government under Title IV, the Intergovernmental Personnel Act of 1970, may  
6 ~~qualify purchase~~ the federal employment in the retirement system under subsection (2) of this section,  
7 ~~provided that if:~~

8 (a) the member has accumulated at least 5 years of membership service; and

9 (b) the member returns to full-time service for at least 1 year after completing employment in the  
10 United States government.

11 (2) A member who is assigned to an agency of the United States government has the option to:

12 (a) continue the member's payments into the pension trust fund; or

13 (b) pay an amount equal to the normal employer and employee contributions plus interest within  
14 2 years after the member's return to active state peace officer status.

15 (3) Compensation earned while on assignment to an agency of the United States government must  
16 be considered compensation for purposes of the retirement system and may be included in the  
17 determination of ~~final highest~~ average ~~salary compensation~~, provided that the ~~final highest~~ average ~~salary~~  
18 ~~cannot compensation does not~~ exceed 100% of the member's highest monthly compensation earned as  
19 a state peace officer."

20

21 **Section 97.** Section 19-8-904, MCA, is amended to read:

22 **"19-8-904. Election Application to purchase additional service.** (1) ~~At any time before retirement,~~  
23 ~~a member may make a written election with the board to purchase additional service credit for the purpose~~  
24 ~~of calculating the member's retirement benefit. Except as provided in subsection (3), the~~ Subject to  
25 [section 98], a member with at least 5 years of membership service, may, at any time before retirement,  
26 file a written application with the board to purchase 1 year of additional service credit for every each 5  
27 years of membership service that the member has qualified ~~under~~ in the retirement system.

28 (2) ~~For each year of service credit purchased~~ To purchase service under this section, a member  
29 shall ~~contribute to the pension trust fund an amount equal to~~ pay the actuarial cost of ~~granting~~  
30 based on the system's most recent actuarial valuation ~~of the system~~ as determined by the board.

1           (3) ~~A member may elect to qualify no more than a combined total of 5 years of service under~~  
2 ~~19-2-707, 19-8-901, 19-8-903, and this section.~~

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

6

7           **NEW SECTION. Section 98. Service purchase limitation.** A member may not purchase more than  
8 a combined total of 5 years of service under 19-8-901 and 19-8-904.

9

10           **Section 99.** Section 19-8-1001, MCA, is amended to read:

11           **"19-8-1001. Benefits upon employment-related death.** If the board finds that a member died as  
12 a direct and proximate result of injury received in the course of the member's service, a monthly  
13 survivorship benefit must be paid to the member's designated beneficiary equal to 50% of the ~~final~~ highest  
14 average salary compensation of the member. If the deceased member has completed more than 25 years  
15 of service credit, the survivorship benefit must equal 2% of the member's highest average compensation  
16 for each year of service credit."

17

18           **Section 100.** Section 19-9-104, MCA, is amended to read:

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

21           (1) "Compensation" means the remuneration, excluding overtime, holiday payments, shift  
22 differential payments, compensation time payments, and payments in lieu of sick leave and annual leave,  
23 paid for services to a member out of funds controlled by an employer before any pretax deductions allowed  
24 by the Internal Revenue Code have been made.

25           (2) "Dependent child" means a child of a deceased member:

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

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

29           (3) "Employer" means any city that participated in a prior plan or that elects to join this retirement  
30 system under 19-9-207.



1 (4) "Final average compensation" means the monthly compensation of a member, averaged over  
 2 the last 36 months of the member's service or, in the event a member has not been a member that long,  
 3 over the period of membership.

4 (5) "Minimum retirement date" means the first day of the month coinciding with or, if none  
 5 coincides, the date on which a member both becomes age 50 and completes 5 years of membership  
 6 service.

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

11 (7) "Police officer" means an appointed, lawfully trained, appropriately salaried, and regularly  
 12 acting officer with the requisite professional certification and licensing.

13 ~~(8)~~ (9) "Prior plan" means the local police reserve or pension trust fund of a city that elects to join  
 14 the retirement system under 19-9-207.

15 ~~(8)~~(9) "Retirement date" means the date on which the first payment of the retirement, disability,  
 16 or survivorship benefits of a member or a survivor is payable.

17 ~~(9)~~(10) "Surviving spouse" means the spouse married to a member at the time of the member's  
 18 death.

19 ~~(10)~~(11) "Survivor" means a surviving spouse or dependent child of the member."  
 20

21 **Section 101.** Section 19-9-301, MCA, is amended to read:

22 **"19-9-301. Active membership -- inactive vested member -- inactive nonvested member.** (1) A  
 23 police officer becomes an active member of the retirement system:

24 (a) on the date the police officer's service with an employer commences;

25 (b) on July 1, 1977, if the police officer is employed by an employer on that date; or

26 (c) in the case of an employer that elects to join the retirement system, as provided in 19-9-207,  
 27 on the effective date of the election if the police officer is employed by the employer on that date. A  
 28 person who is a member of the public employees' retirement system on the date of the employer's election  
 29 may remain in the public employees' retirement system or may elect to become a member of the municipal  
 30 police officers' retirement system by filing a written election with the board no later than 30 days after

1 the date of the employer's election.

2 (2) Upon becoming eligible for membership, the police officer shall complete the forms and furnish  
3 the proof required by the board.

4 (3) A member becomes an inactive member on the first day of an approved absence from service  
5 of a substantial duration.

6 (4) A member with at least 5 years of membership service who terminates service and does not  
7 take a refund of the member's accumulated contributions is an inactive vested member and retains the  
8 right to purchase service and to receive a retirement benefit under the provisions of this chapter.

9 (5) A member with less than 5 years of membership service who terminates service and leaves  
10 the member's accumulated contributions in the pension trust fund is an inactive nonvested member and  
11 is not eligible for any benefits from the retirement system. An inactive nonvested member is eligible only  
12 for a refund of the member's accumulated contributions."  
13

14 **Section 102.** Section 19-9-403, MCA, is amended to read:

15 **"19-9-403. Election Application to qualify purchase previous military service.** (1) ~~A~~ Except as  
16 otherwise provided in this section and subject to [section 105], a member with at least 15 years or more  
17 of service credit may, at any time prior to retirement, make file a written election application with the  
18 board to qualify purchase up to a maximum of 5 years of the member's active duty service in the armed  
19 forces of the United States for the purpose of calculating retirement benefits if the member is not  
20 otherwise eligible to receive credit.

21 (2) To qualify purchase this military service, the member shall ~~contribute to the pension trust fund~~  
22 pay the actuarial cost of granting the member's military service to be determined by the board, based on  
23 the system's most recent actuarial valuation ~~of the system.~~

24 (3) The member may not qualify purchase more of the member's military service than the member  
25 has member's years of membership service credit in excess of 15 years.

26 ~~(2) If a~~ (4) A member is not eligible to purchase military service under this section if the member:

27 (a) has retired from active duty in the armed forces of the United States with a normal military  
28 service military retirement benefit, ~~the member may not qualify the member's military service under~~  
29 subsection (1) based on that military service;

30 (b) is eligible, pursuant to ~~19-3-707~~ 19-2-707, to receive credit in the system for that service; or

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

2

3 **Section 103.** Section 19-9-405, MCA, is amended to read:

4 **"19-9-405. ~~Qualification Purchase of other Montana public service.~~** (1) (a) A member may, at any  
5 time before retirement, ~~make file~~ a written ~~election application~~ with the board to ~~qualify purchase~~ all or  
6 any portion of the member's service credit in the public employees', highway patrol officers', firefighters'  
7 unified, sheriffs', or game wardens' and peace officers' retirement system ~~for which~~ to the extent that the  
8 member either has received or is eligible to receive a refund of the member's accumulated contributions.

9 (b) To qualify purchase this service, the member shall ~~contribute to the pension trust fund~~ pay the  
10 actuarial cost of ~~granting~~ the service in the municipal police officers' retirement system, as determined by  
11 the board, based on the system's most recent actuarial valuation minus the employer contribution provided  
12 in subsection ~~(1)(b)~~ (1)(c).

13 ~~(b)(c)~~ (c) Upon receiving the member's payment under subsection ~~(1)(a)~~ (1)(b), the board shall transfer  
14 from the member's former retirement system to the municipal police officers' retirement system an amount  
15 equal to the employer contributions made during the member's service but no more than an amount equal  
16 to the regular contribution rate minus the employee contribution rate in the municipal police officers'  
17 retirement system, according to the most recent actuarial valuation, based on the salaries earned by the  
18 employee as a member of the former system.

19 (2) (a) A member may, at any time before retirement, ~~make file~~ a written ~~election application~~ with  
20 the board to ~~qualify purchase all or a portion of any~~ full-time public service employment performed for the  
21 state or a political subdivision of the state. The member shall provide salary and employment  
22 documentation certified by the member's public employer. The board shall grant service credit subject to  
23 ~~the board's rules adopted by the board, upon contribution by~~ To purchase service under this section, the  
24 employee ~~of~~ shall pay the actuarial cost of ~~granting this the~~ service in the municipal police officers'  
25 retirement system, as determined by the board, based on ~~the employee's compensation earned during this~~  
26 ~~period of service and the regular contribution rate according to the~~ system's most recent actuarial valuation  
27 ~~of the system.~~

28 (b) The board is the sole authority under this subsection (2) in determining what constitutes  
29 full-time public service."

30

1           **Section 104.** Section 19-9-411, MCA, is amended to read:

2           "**19-9-411. Election Application to purchase additional service.** (1) ~~At any time before retirement,~~  
3 ~~a member may make a written election with the board to purchase additional service credit for the purpose~~  
4 ~~of calculating the member's retirement benefit. Except as provided in subsection (3), the Subject to~~  
5 ~~[section 105], a member with at least 5 years of membership service may, at any time before retirement,~~  
6 ~~file a written application with the board to purchase 1 year of additional service credit for ~~every~~ each 5~~  
7 ~~years of membership service that the member has qualified under the retirement system.~~

8           (2) ~~For each year of service credit purchased under this section~~ To purchase service under this  
9 section, a member shall ~~contribute to the pension trust fund an amount equal to~~ pay the actuarial cost of  
10 ~~granting the service, based on the system's most recent actuarial valuation of the system as determined~~  
11 ~~by the board.~~

12           (3) ~~A member may elect to qualify no more than a combined total of 5 years of service under~~  
13 ~~19-2-707, 19-9-403, and this section.~~

14           ~~————(4)~~ Service purchased under this section is not membership service and may not be used to qualify  
15 a member for retirement or in the calculation of an actuarial reduction in benefits for a member who is not  
16 eligible for normal service retirement."

17

18           NEW SECTION. Section 105. Service purchase limitation. A member may not purchase more than  
19 a combined total of 5 years of service under 19-9-403 and 19-9-411.

20

21           **Section 106.** Section 19-9-801, MCA, is amended to read:

22           "**19-9-801. Eligibility for service retirement -- commencement of benefit.** ~~(1) Members are A~~  
23 ~~member has attained normal retirement age and is eligible for a service retirement as provided in this~~  
24 ~~section. benefit after terminating service if:~~

25           ~~(2) A member is eligible to receive a service retirement benefit when (1) the member has~~  
26 ~~completed 20 years or more of membership service and has terminated service; or~~

27           ~~(3) A (2) the member who terminates service after completing has completed at least 5 years of~~  
28 ~~membership service but prior to completing 20 years of membership service is eligible to receive a service~~  
29 ~~retirement benefit when the member has and reached 50 years of age."~~

30

1           **Section 107.** Section 19-9-1101, MCA, is amended to read:

2           "**19-9-1101. Preretirement death benefits.** ~~(1)~~ Upon the death of a an active member ~~before~~  
3 ~~retirement~~, the member's surviving spouse or dependent child is eligible for benefits equal to one-half of  
4 the member's final average compensation, payable as provided in 19-9-804(2). If the deceased member  
5 has completed over 20 years of membership service, the survivorship benefit must equal 2.5% of the  
6 member's final average compensation for each year of membership service.

7           ~~(2) Upon the death of an inactive nonvested member, the member's surviving spouse or dependent~~  
8 ~~child is eligible for a refund of the member's accumulated contributions."~~

9

10           **Section 108.** Section 19-9-1102, MCA, is amended to read:

11           "**19-9-1102. Payments in absence of spouse or child.** If, after a ~~retired~~ member dies ~~without~~  
12 ~~leaving a surviving spouse or dependent child and if the member had designated a beneficiary in writing~~  
13 ~~to the board as provided in 19-2-801, the, a benefit is not paid pursuant to 19-9-804, 19-9-903, or~~  
14 19-9-1101, then the member's designated beneficiary must be paid the amount, if any, of the member's  
15 accumulated contributions minus the total of any ~~retirement~~ benefits already paid from the member's  
16 account. ~~If the member did not designate a beneficiary or the designated beneficiary predeceased the~~  
17 ~~member, the amount must be paid to the member's estate."~~

18

19           **Section 109.** Section 19-13-301, MCA, is amended to read:

20           "**19-13-301. Active membership -- inactive vested member -- inactive nonvested member.** (1)  
21 Except as provided in subsection (7), a full-paid firefighter becomes an active member of the retirement  
22 system:

23           (a) on the first day of the firefighter's service with an employer;

24           (b) on July 1, 1981, if the firefighter is employed by an employer on that date; or

25           (c) in the case of an employer who elects to join the retirement system, as provided in 19-13-211,  
26 on the effective date of the election if the firefighter is employed by the employer on that date.

27           (2) Upon becoming eligible for membership, the firefighter shall complete the forms and furnish  
28 any proof required by the board.

29           (3) A part-paid firefighter may elect to become a member of the retirement system by filing a  
30 membership application with the board within 6 months of becoming a part-paid firefighter or [the effective

1 date of this section], whichever is later.

2 (4) An active member becomes an inactive member upon the occurrence of the earliest of the  
3 following:

4 (a) the date on which the member ceases service with an employer;

5 (b) the 31st day of an approved absence from active duty with an employer; or

6 (c) the date on which the member ceases to be employed because of a reduction of the number  
7 of firefighters in the fire department as provided in 7-33-4125.

8 (5) A member with at least 5 years of membership service who terminates service and does not  
9 take a refund of the member's accumulated contributions is an inactive vested member and retains the  
10 right to purchase service and to receive a retirement benefit under the provisions of this chapter.

11 (6) A member with less than 5 years of membership service who terminates service and leaves  
12 the member's accumulated contributions in the pension trust fund is an inactive nonvested member and  
13 is not eligible for any benefits from the retirement system. An inactive nonvested member is eligible only  
14 for a refund of the member's accumulated contributions.

15 (7) (a) A firefighter previously employed in a position covered under the public employees'  
16 retirement system and who is first hired into a position covered under the firefighters' unified retirement  
17 system after attaining 45 years of age may elect to remain in the public employees' retirement system.

18 (b) A firefighter making an election to remain in the public employees' retirement system shall  
19 make the election in a manner prescribed by the board within ~~1 month~~ 30 days of being hired into the  
20 position otherwise covered under the firefighters' unified retirement system."

21

22 **Section 110.** Section 19-13-403, MCA, is amended to read:

23 **"19-13-403. Election Application to qualify purchase previous military service.** (1) ~~A~~ (a) Except  
24 as otherwise provided in this section and subject to [section 113], a member with at least 15 years of  
25 more of service credit may, at any time prior to retirement, ~~make file~~ file a written ~~election~~ election application with  
26 the board to qualify purchase all or any portion up to 5 years of the member's active duty service in the  
27 armed forces of the United States for the purpose of calculating retirement benefits, ~~up to a maximum of~~  
28 ~~5 years, if the member is not otherwise eligible to receive credit for this service under 19-2-707.~~

29 (b) To qualify purchase this military service, the member shall ~~contribute to the pension trust fund~~  
30 pay the actuarial cost of granting the service ~~to be determined by the board,~~ based on the system's most

1 recent actuarial valuation ~~of the system.~~

2 ~~(2) A member may not qualify purchase more of the member's military service than the member~~  
 3 ~~has member's years of membership service credit in excess of 15 years. Military service purchased under~~  
 4 ~~this section may not be used in determining the member's eligibility for a service retirement.~~

5 ~~——(2)(3) If a~~ A member is not eligible to purchase military service under this section if the member:

6 ~~(a) has retired from active duty in the armed forces of the United States with military retirement~~  
 7 ~~benefits, the member may not qualify military service under subsection (1) based on that military service;~~

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

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

10 ~~(4) Military service purchased under this section is not membership service and may not be used~~  
 11 ~~in determining the member's eligibility for a service retirement benefit."~~

12

13 **Section 111.** Section 19-13-404, MCA, is amended to read:

14 **"19-13-404. Qualification Purchase of other Montana public service.** (1) (a) A member may, at  
 15 any time before retirement, ~~make file~~ a written ~~election~~ application with the board to qualify purchase all  
 16 or any portion of the member's service credit in the public employees', highway patrol officers', sheriffs',  
 17 municipal police officers', or game wardens' and peace officers' retirement system ~~for which~~ to the extent  
 18 that the member either has received or is eligible to receive a refund of the member's accumulated  
 19 contributions.

20 ~~(b)~~ To qualify purchase this service, the member shall contribute to the pension trust fund pay the  
 21 actuarial cost of ~~granting~~ the service in the firefighters' unified retirement system, as determined by the  
 22 board, based on the system's most recent actuarial valuation minus the employer contribution provided  
 23 in subsection ~~(1)(b)~~ (1)(c).

24 ~~(b)(c)~~ Upon receiving the member's payment under subsection ~~(1)(a)~~ (1)(b), the board shall transfer  
 25 from the member's former retirement system to the firefighters' unified retirement system an amount equal  
 26 to the employer contributions made during the member's service; but no more than an amount equal to  
 27 the normal contribution rate minus the employee contribution rate in the firefighters' unified retirement  
 28 system, according to the most recent actuarial valuation, based on the compensation earned by the  
 29 employee as a member of the former system.

30 (2) (a) A member may, at any time before retirement, ~~make file~~ a written ~~election~~ application with

1 the board to ~~qualify any purchase~~ ALL OR A PORTION OF full-time public service employment performed for  
 2 the state or a political subdivision of the state. The member shall provide compensation and employment  
 3 documentation certified by the member's public employer. The board shall grant service credit subject to  
 4 the board's rules adopted by the board upon contribution by. To purchase service under this section, the  
 5 employee ~~of~~ shall pay the actuarial cost of ~~granting this~~ the service in the firefighters' unified retirement  
 6 system, ~~as determined by the board,~~ based on the system's most recent actuarial valuation ~~of the system.~~

7 (b) The board is the sole authority under this subsection (2) in determining what constitutes  
 8 full-time public service."  
 9

10 **Section 112.** Section 19-13-405, MCA, is amended to read:

11 **"19-13-405. Election Application to purchase additional service.** (1) ~~At any time before retirement,~~  
 12 ~~a member may make a written election with the board to purchase additional service credit for the purpose~~  
 13 ~~of calculating the member's retirement benefit. Except as provided in subsection (3), the~~ Subject to  
 14 [section 113], a member with at least 5 years of membership service may, at any time before retirement,  
 15 file a written application with the board to purchase 1 year of additional service credit for every each 5  
 16 years of membership service ~~that the member has qualified under the retirement system.~~

17 (2) ~~For each year of service credit purchased under this section~~ To purchase service under this  
 18 section, a member shall ~~contribute to the pension trust fund an amount equal to~~ pay the actuarial cost of  
 19 ~~granting~~ the service, based on the system's most recent actuarial valuation ~~of the system~~ as determined  
 20 by the board.

21 (3) ~~A member may elect to qualify no more than a combined total of 5 years of service under~~  
 22 ~~19-2-707, 19-13-403, and this section.~~

23 ~~——(4) Service purchased under this section is not membership service and may not be used to qualify~~  
 24 ~~a member for retirement or in the calculation of an actuarial reduction in benefits for a member who is not~~  
 25 ~~eligible for normal service retirement."~~

26

27 **NEW SECTION. Section 113. Service purchase limitation.** A member may not purchase more than  
 28 a combined total of 5 years of service under 19-13-403 and 19-13-405.

29

30 **Section 114.** Section 19-13-604, MCA, is amended to read:



1           **"19-13-604. State contribution.** The state shall make its contributions from the general fund.  
 2 ~~Payments must be made annually from the~~ The general fund to the pension trust fund ~~contributions must~~  
 3 ~~be made annually~~ after the end of each fiscal year but no later than November 1. The board shall notify  
 4 the state auditor by September 1 of each fiscal year of the annual compensation, excluding overtime,  
 5 holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick  
 6 leave, paid to all active members during the preceding fiscal year. The state's contribution is 32.61% of  
 7 this total compensation. The contributions are statutorily appropriated, ~~as provided in 17-7-502.~~"

8

9           **Section 115.** Section 19-13-701, MCA, is amended to read:

10           **"19-13-701. Eligibility for service retirement.** (1) A member who has completed 20 years or more  
 11 of membership service has attained normal retirement age and is eligible for service retirement.

12           (2) A vested member who terminates service before the minimum retirement date and keeps the  
 13 member's accumulated contributions on deposit has attained normal retirement age and is eligible for  
 14 service retirement commencing on the member's minimum retirement date."

15

16           **Section 116.** Section 19-13-902, MCA, is amended to read:

17           **"19-13-902. Survivorship benefit.** (1) ~~Upon the death before retirement of an active member the~~  
 18 A member's surviving spouse, if there is one, must receive a survivorship benefit equal to one-half the final  
 19 average compensation received by the member amount as provided in this section. ~~If the a member leaves~~  
 20 ~~one or more dependent children, then, upon the member's death if the member leaves no surviving spouse~~  
 21 ~~or upon the death of the surviving spouse, the member's surviving dependent children must collectively~~  
 22 ~~receive the same benefit that a surviving spouse would have received;~~ under this section. A child may  
 23 receive a share of the benefit as long as the children remain child is a dependent children child, as defined  
 24 in 19-13-104.

25           (2) ~~If the deceased~~ (a) The survivorship benefit paid upon the death of an active member who has  
 26 completed less than 20 years of membership service is one-half the final average compensation received  
 27 by the member.

28           (b) The survivorship benefit paid upon the death of an active or inactive member who has  
 29 completed over 20 years of membership service; ~~the survivorship benefit must be equal to 2.5% of the~~  
 30 ~~final average compensation for each year of service~~ is the benefit amount to which the member was

1 entitled on the date of death.

2 (3) Benefits provided under this section are subject to the benefit adjustments provided pursuant  
3 to part 10 of this chapter."

4

5 **Section 117.** Section 19-13-903, MCA, is amended to read:

6 **"19-13-903. Payments ~~in absence of spouse or dependent child to designated beneficiary.~~** If, after  
7 a member dies without leaving a surviving spouse or dependent child and if the member had designated  
8 a beneficiary in writing to the board as provided in 19-2-801, a benefit is not paid pursuant to 19-13-704,  
9 19-13-803, or 19-13-902, then the board shall pay to the member's designated beneficiary the amount,  
10 if any, of the retired member's accumulated contributions minus the total of any retirement benefits  
11 already paid from the member's account. ~~If the deceased member did not designate a beneficiary or the~~  
12 ~~beneficiary predeceased the member, the amount must be paid to the member's estate."~~

13

14 **Section 118.** Section 19-17-102, MCA, is amended to read:

15 **"19-17-102. Definitions.** Unless the context requires otherwise, the following definitions apply  
16 in this chapter:

17 (1) "Active member" means a volunteer firefighter credited with service under this chapter during  
18 the most recently reportable fiscal year.

19 (2) "Benefit" means the pension, disability, or survivorship benefit provided under this chapter.

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

21 (4) "Claim" means a request from a member, surviving spouse, or dependent child for payment  
22 of medical or funeral expenses.

23 (5) "Department" means the department of administration.

24 (6) "Dependent child" means a child who is unmarried, who is under 18 years of age, and who  
25 is the child of a deceased member.

26 (7) "Disability" or "permanent total disability" means permanent total disability as defined in  
27 39-71-116.

28 (8) "Fire company" means a fire company organized in an unincorporated area, town, or village  
29 in accordance with 7-33-2311.

30 (9) "Fiscal year" means the 12-month period that begins on July 1 and ends on June 30 of the

1 following year.

2 (10) "Member" means a volunteer firefighter who has service credited under this chapter.

3 (11) "Pension trust fund" means the volunteer firefighters' pension trust fund established to pay  
4 CLAIMS AND benefits under this chapter.

5 (12) "Retiree" or "retired member" means a member who is receiving full or partial participation  
6 benefits or disability benefits from the pension trust fund.

7 (13) "Service" means cumulative periods of active membership that are credited only in full fiscal  
8 years year increments.

9 (14) "Supplemental insurance" means insurance that is carried by a fire company for the purposes  
10 of providing disability or death benefits and that is in addition to any insurance required by law, including  
11 workers' compensation insurance.

12 (15) "Surviving spouse" means the spouse married to a member when the member dies.

13 (16) "Survivorship benefit" means the monthly benefit paid to the surviving spouse or dependent  
14 child of a deceased member.

15 (17) "Volunteer firefighter" means a person who is an active member of an eligible fire company  
16 and is not compensated for services as a firefighter."

17

18 **Section 119.** Section 19-17-104, MCA, is amended to read:

19 **"19-17-104. Penalty for false statements or claims.** A person required to make a statement or  
20 affidavit by this chapter who willfully falsifies ~~such~~ the statement or affidavit or a person who files a false  
21 claim under this chapter is guilty of a misdemeanor and upon conviction ~~thereof~~ shall be punished by a fine  
22 in an amount not exceeding ~~\$500~~ \$1,000 or by imprisonment for a term not exceeding ~~6 months~~ 1 year,  
23 or both."

24

25 **Section 120.** Section 19-17-106, MCA, is amended to read:

26 **"19-17-106. Pension trust fund established -- restrictions on use.** (1) A pension trust fund is  
27 established and maintained for payment of claims and benefits provided under the Volunteer Firefighters'  
28 Compensation Act and the volunteer firefighters' pension plan.

29 (2) The pension trust fund must be funded on an actuarially sound basis. For purposes of this  
30 subsection, "actuarially sound basis" means that contributions must be sufficient to pay the full actuarial

1 cost of the fund. The full actuarial cost includes both the normal cost of providing benefits as they accrue  
 2 in the future and the cost of amortizing unfunded liabilities over a scheduled period of no more than 30  
 3 years.

4 (3) Except as provided in this section, a member or an employee of the department or the board  
 5 of investments may not:

6 (a) have any interest, direct or indirect, in the making of any investment or in the gains or profits  
 7 accruing from the pension trust fund;

8 (b) directly or indirectly, for the member or employee or as an agent or partner of others, borrow  
 9 from the pension trust fund or deposits;

10 (c) in any manner use the pension trust fund except to make current and necessary payments that  
 11 are authorized by the board; or

12 (d) become an endorser or surety as to or in any manner an obligor for investments for the pension  
 13 trust fund.

14 (3)(4) The assets of the pension trust fund may not be used for or diverted to any purpose other  
 15 than for the exclusive benefit of members, their surviving spouses, their dependent children, and qualified  
 16 fire companies and for paying the reasonable administrative expenses of administering this chapter.

17 (5) Upon the termination of the pension trust fund, the substantial reduction in the number of  
 18 members that would constitute a partial termination of the pension trust fund, or the complete  
 19 discontinuance of contributions to the pension trust fund, the pension benefit accrued to each member  
 20 directly affected by the occurrence becomes fully vested and nonforfeitable to the extent that the benefit  
 21 is funded."

22

23 **Section 121.** Section 19-17-202, MCA, is amended to read:

24 **"19-17-202. Reports of board.** (1) ~~The~~ As soon as practical after the close of each fiscal year,  
 25 the board shall, not later than November 1 of each year, make a report to file with the governor a report  
 26 covering the operations and proceedings for the prior fiscal year relative to its administration of the  
 27 Volunteer Firefighters' Compensation Act and the volunteer firefighters' pension plan for that fiscal year.

28 (2) The report ~~may include suggestions or recommendations that the board considers of value for~~  
 29 public information must include:

30 (a) a statement of the accumulated cash and securities in the pension trust fund as certified by

1 the state treasurer and the board of investments; and

2 (b) the most recent published report of the actuary of the actuarial valuation of the assets and  
3 liabilities of the plan.

4 ~~(2) Copies of the reports must be made available by the board to the chief or other representative~~  
5 ~~of any volunteer fire company or companies that request them."~~

6

7 **Section 122.** Section 19-17-401, MCA, is amended to read:

8 **"19-17-401. Eligibility for pension and disability benefits.** (1) To qualify for pension and disability  
9 benefits under this chapter, a member shall meet the requirements of subsections (2) or (3) and (4).

10 (2) (a) For full pension benefits, a member must have completed at least 20 years' service and  
11 must have attained 55 years of age, but need not be an active member of a fire company when 55 years  
12 of age is reached.

13 (b) A member who is prevented from completing at least 20 years' service may qualify for partial  
14 pension benefits if the member has completed at least 10 years' service and has attained 60 years of age,  
15 but need not be an active member of any fire company when 60 years of age is reached.

16 (3) An active member of a fire company whose duty-related injury results in permanent total  
17 disability, as defined in 39-71-116 and determined pursuant to [section 127], is eligible, regardless of age  
18 or service, to receive a disability benefit.

19 (4) To receive a pension or disability benefits benefit, a volunteer firefighter may not be an active  
20 member of any fire company. A volunteer firefighter who receives a pension or disability benefits benefit  
21 under this chapter may not become an active member of any fire company."

22

23 **Section 123.** Section 19-17-403, MCA, is amended to read:

24 **"19-17-403. Application for benefits.** (1) A member may, as provided in this section, apply for  
25 retirement benefits before terminating covered service, but commencement of the benefits must be as  
26 provided in [section 128].

27 (2) A member, surviving spouse, or dependent child shall apply for benefits on a form provided by  
28 the board.

29 ~~(2)~~(3) The application must contain:

30 (a) the name, address, and date of birth of the member, surviving spouse, or dependent child;

- 1 (b) the date of birth of the member; ~~and~~  
 2 (c) the date of the member's death, if applicable; and  
 3 (d) the fiscal years during which service as an active member is claimed and the names of the fire  
 4 companies with which the service was rendered.

5 ~~(3)~~(4) The board may require any proof of age, death, and service that it may consider proper, but  
 6 it must accept a certificate properly completed and timely filed under 19-17-402 or subsection (3) of  
 7 section 22, Chapter 157, Laws of 1977, as prima facie proof of service.

8 ~~(4) If a qualified member properly submits an application, the member is entitled to receive benefits~~  
 9 ~~as of the first day of the month following approval of the application."~~

10

11 **Section 124.** Section 19-17-404, MCA, is amended to read:

12 **"19-17-404. Amount of pension and disability benefits.** (1) (a) Each eligible member must receive  
 13 pension and disability benefits as provided in this section.

14 (b) The base pension benefit is \$100 ~~per~~ a month for members who are eligible for full pension  
 15 benefits.

16 (c) Partial pension benefits are calculated by multiplying the full pension benefit of \$100 by a  
 17 fraction, the numerator of which is the member's years of service and the denominator of which is 20.

18 (2) The disability benefit paid to eligible members is calculated in the same manner as partial  
 19 pension benefits described in subsection (1)(c), except that the numerator may not be less than 10.

20 (3) If any fraudulent change or any inadvertent mistake in records results in any member, surviving  
 21 spouse, or dependent child receiving more or less than entitled to, then on the discovery of the error, the  
 22 board shall correct the error and adjust the payments to the member, surviving spouse, or dependent child  
 23 in an equitable manner."

24

25 **Section 125.** Section 19-17-405, MCA, is amended to read:

26 **"19-17-405. Survivorship benefits to surviving spouse or dependent children.** (1) Subject to the  
 27 limitation in subsection (3), survivorship benefits equal to the full or partial pension benefits otherwise  
 28 payable to the deceased member must be paid or continue to be paid to the surviving spouse or, if the  
 29 deceased member left no surviving spouse but left a dependent child, to the guardian or other person  
 30 having custody of the dependent child.

- 1 (2) The survivorship benefit must be paid in each of the following circumstances:
- 2 (a) the death on or after July 1, 1995, of a member who had at least 10 years of service and who
- 3 was not receiving pension benefits; or
- 4 (b) the death on or after July 1, 1985, of a retired member who was receiving pension benefits
- 5 but who had not received benefits for a total of 40 months.
- 6 (3) Survivorship benefits under subsection (1) terminate when benefits have been paid for a total
- 7 of 40 months, including any pension or disability benefits paid to the retiree before death. At the request
- 8 of the recipient, a lump-sum payment may be made in lieu of up to 40 months of survivorship benefits."
- 9

10 **Section 126.** Section 19-17-407, MCA, is amended to read:

11 **"19-17-407. Exemption from taxation and legal process.** (1) The first \$3,600 or the amount

12 determined pursuant to 15-30-111(2)(c)(ii) of benefits received under this part is exempt from state,

13 county, and municipal taxation.

14 (2) Except as provided in 19-2-907 and 19-2-909, benefits received under this part are not subject

15 to execution, garnishment, attachment, or any other process."

16

17 **NEW SECTION. Section 127. Determination of disability.** (1) The board shall determine whether

18 a member has become disabled. In the discharge of its duty regarding determinations, the board, any

19 member of the board, or any authorized representative of the board may order medical examinations,

20 conduct contested case hearings, administer oaths and affirmations, take depositions, certify to official

21 acts and records, and issue subpoenas to compel the attendance of witnesses and the production of

22 books, papers, correspondence, memoranda, and other records considered necessary as evidence in

23 connection with a claim for disability benefits.

24 (2) The board shall retain medical personnel to advise it in initially determining the nature and

25 extent of disabling conditions.

26

27 **NEW SECTION. Section 128. Time benefits commence.** (1) The pension benefit payable pursuant

28 to this part may commence on the first day of the month following the eligible member's last day of

29 service or on the first day of a later month following filing of the written application.

30 (2) The disability retirement benefit payable pursuant to this part must commence on the day

1 following the member's termination from service.

2 (3) Monthly survivorship benefits payable pursuant to this part must commence on the day  
3 following the death of the member.

4

5 **NEW SECTION. Section 129. Catchup eligibility and normal retirement age.** For the purposes of  
6 determining a participant's eligibility to catch up on making the maximum annual deferrals allowable,  
7 normal retirement age must be specified in writing by the participant and must be no earlier than:

8 (1) the age at which the participant is eligible to retire pursuant to the participant's Title 19  
9 retirement system because of the participant's age, length of service, or both, without disability, and with  
10 the right to receive immediate retirement benefits without actuarial or similar reduction because of  
11 retirement before a specified age; or

12 (2) 60 years of age if the participant is not a member of a Title 19 retirement plan or is a member  
13 of a defined contribution retirement plan.

14

15 **NEW SECTION. Section 130. Repealer.** Sections 19-2-1101 and 19-2-1102, MCA, are repealed.

16

17 **NEW SECTION. Section 131. Codification instruction.** (1) [Sections 28 and 29] are intended to  
18 be codified as an integral part of Title 19, chapter 3, part 5, and the provisions of Title 19, chapter 3, part  
19 5, apply to [sections 28 and 29].

20 (2) [Section 65] is intended to be codified as an integral part of Title 19, chapter 6, part 8, and  
21 the provisions of Title 19, chapter 6, part 8, apply to [section 65].

22 (3) [Section 80] is intended to be codified as an integral part of Title 19, chapter 7, part 8, and  
23 the provisions of Title 19, chapter 7, part 8, apply to [section 80].

24 (4) [Section 98] is intended to be codified as an integral part of Title 19, chapter 8, part 9, and  
25 the provisions of Title 19, chapter 8, part 9, apply to [section 98].

26 (5) [Section 105] is intended to be codified as an integral part of Title 19, chapter 9, part 4, and  
27 the provisions of Title 19, chapter 9, part 4, apply to [section 105].

28 (6) [Section 113] is intended to be codified as an integral part of Title 19, chapter 13, part 4, and  
29 the provisions of Title 19, chapter 13, part 4, apply to [section 113].

30 (7) [Sections 127 and 128] are intended to be codified as an integral part of Title 19, chapter 17,



1 part 4, and the provisions of Title 19, chapter 17, part 4, apply to [sections 127 and 128].

2 (8) [Section 129] is intended to be codified as an integral part of Title 19, chapter 50, part 1, and  
3 the provisions of Title 19, chapter 50, part 1, apply to [section 129].

4

5 NEW SECTION. **Section 132. Effective dates.** (1) Except as provided in subsection (2), [this act]  
6 is effective on passage and approval.

7 (2) [Section 29] is effective June 30, 2001.

8

9 NEW SECTION. **Section 133. Termination.** [Section 28] terminates June 30, 2001.

10

- END -