

1 HOUSE BILL NO. 213

2 INTRODUCED BY GALLIK

3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ADMINISTRATIVE PROVISIONS
6 GOVERNING THE PUBLIC EMPLOYEES', JUDGES', HIGHWAY PATROL OFFICERS', SHERIFFS', GAME
7 WARDENS' AND PEACE OFFICERS', MUNICIPAL POLICE OFFICERS', AND FIREFIGHTERS' UNIFIED
8 RETIREMENT SYSTEMS, THE VOLUNTEER FIREFIGHTERS' COMPENSATION ACT, AND THE LOCAL
9 POLICE OFFICERS' RETIREMENT FUNDS; CLARIFYING TERMINOLOGY RELATED TO TERMINATION OF
10 SERVICE AND EMPLOYMENT; REFINING THE DEFINITION OF "VESTED"; CLARIFYING SERVICE CREDIT
11 IN MORE THAN ONE SYSTEM; CHANGING THE HOURS THAT MAY BE WORKED WHEN A RETIREE
12 RETURNS TO WORK; PROVIDING FOR CORRECTIONS TO SERVICE PURCHASE ERRORS; DELETING
13 THE BAN ON ESTABLISHING A NEW ACCOUNT FOR AN ALTERNATE PAYEE; CLARIFYING ELIGIBILITY
14 TO APPLY FOR DISABILITY BENEFITS; CLARIFYING EDUCATION PROGRAM REQUIREMENTS; DELETING
15 THE USE OF COVERED PAYROLL TERMINOLOGY REGARDING EMPLOYER CONTRIBUTIONS;
16 CLARIFYING THE DEFINITION OF "COMPENSATION"; REVISING OPTIONAL MEMBERSHIP ELECTION
17 PROVISIONS; CLARIFYING EMPLOYER PAYMENTS FOR EMPLOYEE SERVICE PURCHASES;
18 CLARIFYING DISABILITY BENEFITS FOR PUBLIC EMPLOYEES' RETIREMENT SYSTEM MEMBERS WHO
19 JOINED BEFORE FEBRUARY 24, 1991; CLARIFYING SURVIVORSHIP PAYMENT OPTIONS; CLARIFYING
20 RETIREMENT BENEFIT PAYMENT OPTION 4; CLARIFYING CERTAIN PROVISIONS IN THE DEFINED
21 CONTRIBUTION RETIREMENT PLAN UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM;
22 CORRECTING AN OVERSIGHT TO ALLOW MEMBERS OF THE JUDGES' RETIREMENT SYSTEM TO
23 PURCHASE MILITARY SERVICE; ~~CORRECTING INTERNAL REFERENCES TO~~ REVISING THE ELECTION
24 OF GUARANTEED ANNUAL BENEFIT PROVISIONS IN THE JUDGES' RETIREMENT SYSTEM;
25 ELIMINATING A PROVISION IN CERTAIN SYSTEMS THAT CONFLICTED WITH OTHER SYSTEMS'
26 PROVISIONS REGARDING PAYMENTS TO MINOR CHILDREN; ELIMINATING A REQUIREMENT THAT FIRE
27 DISTRICTS HAVE CERTAIN INSURANCE RATINGS IN ORDER FOR VOLUNTEER FIREFIGHTERS TO GET
28 SERVICE CREDIT; REVISING CATCHUP PROVISIONS OF THE DEFERRED COMPENSATION PLAN;
29 REVISING THE DEADLINE BY WHICH LOCAL POLICE FUND INFORMATION MUST BE SUBMITTED TO
30 THE PUBLIC EMPLOYEES' RETIREMENT BOARD; COORDINATING DEPARTMENT OF JUSTICE

1 PROVISIONS REGARDING INJURY AND REASSIGNMENT OF HIGHWAY PATROL OFFICERS WITH THE
 2 DISABILITY PROVISIONS OF THE HIGHWAY PATROL OFFICES' RETIREMENT SYSTEM; AMENDING
 3 SECTIONS 19-2-303, 19-2-502, 19-2-602, 19-2-703, 19-2-704, 19-2-706, 19-2-903, 19-2-907, 19-2-908,
 4 19-2-909, 19-3-108, 19-3-112, 19-3-201, 19-3-316, 19-3-318, 19-3-319, 19-3-401, 19-3-403, 19-3-412, 19-3-505,
 5 19-3-908, 19-3-1002, 19-3-1005, 19-3-1015, 19-3-1204, 19-3-1501, 19-3-2104, 19-3-2111, 19-3-2112,
 6 19-3-2114, 19-3-2116, 19-3-2117, 19-3-2121, 19-3-2126, 19-5-103, 19-5-402, 19-5-404, 19-5-410, ~~19-5-502,~~
 7 ~~19-5-601,~~ 19-5-701, ~~19-5-802~~ 19-5-902, 19-6-301, 19-6-402, 19-6-404, 19-6-505, 19-6-709, 19-7-301, 19-7-403,
 8 19-7-404, 19-7-801, 19-7-1001, 19-8-301, 19-8-502, 19-8-504, 19-8-801, 19-9-301, 19-9-703, 19-9-710,
 9 19-9-804, 19-9-902, 19-9-905, 19-9-1202, 19-9-1207, 19-9-1208, 19-13-301, 19-13-605, 19-13-802, 19-13-805,
 10 19-17-108, 19-17-407, 19-19-205, 19-50-103, 19-50-104, 44-1-515, AND 44-1-518, MCA; AND PROVIDING
 11 AN EFFECTIVE DATE."

12

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

14

15 **Section 1.** Section 19-2-303, MCA, is amended to read:16 **"19-2-303. Definitions.** Unless the context requires otherwise, for each of the retirement systems
 17 subject to this chapter, the following definitions apply:18 (1) "Accumulated contributions" means the sum of all the regular and any additional contributions made
 19 by a member in a defined benefit plan, together with the regular interest on the contributions.20 (2) "Active member" means a member who is a paid employee of an employer, is making the required
 21 contributions, and is properly reported to the board for the most current reporting period.22 (3) "Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory
 23 manner to represent the present value of the benefits to be derived from the additional service to be credited
 24 based on the most recent actuarial valuation for the system and the age, years until retirement, and current
 25 salary of the member.26 (4) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality
 27 table and interest rate assumptions adopted by the board.28 (5) "Actuarial liabilities" means the excess of the present value of all benefits payable under a defined
 29 benefit retirement plan over the present value of future normal costs in that retirement plan.

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

- 1 (7) "Additional contributions" means contributions made by a member of a defined benefit plan to
2 purchase various types of optional service credit as allowed by the applicable retirement plan.
- 3 (8) "Annuity" means:
- 4 (a) in the case of a defined benefit plan, equal and fixed payments for life that are the actuarial
5 equivalent of a lump-sum payment under a retirement plan and as such are not benefits paid by a retirement
6 plan and are not subject to periodic or one-time increases; or
- 7 (b) in the case of the defined contribution plan, a payment of a fixed sum of money at regular intervals.
- 8 (9) "Benefit" means:
- 9 (a) the service retirement benefit, early retirement benefit, or disability retirement or survivorship benefit
10 payment provided by a defined benefit retirement plan; or
- 11 (b) a payment or distribution under the defined contribution retirement plan, including a disability
12 payment under 19-3-2141, for the exclusive benefit of a plan member or the member's beneficiary or an annuity
13 purchased under 19-3-2124.
- 14 (10) "Board" means the public employees' retirement board provided for in 2-15-1009.
- 15 (11) "Contingent annuitant" means a person designated to receive a continuing monthly benefit after
16 the death of a retired member.
- 17 (12) "Covered employment" means employment in a covered position.
- 18 (13) "Covered position" means a position in which the employee must be a member of the retirement
19 system except as otherwise provided by law.
- 20 (14) "Defined benefit retirement plan" or "defined benefit plan" means a plan within the retirement
21 systems provided for pursuant to 19-2-302 that is not the defined contribution retirement plan.
- 22 (15) "Defined contribution retirement plan" or "defined contribution plan" means the plan within the public
23 employees' retirement system established in 19-3-103 that is provided for in chapter 3, part 21, of this title and
24 that is not a defined benefit plan.
- 25 (16) "Department" means the department of administration.
- 26 (17) "Designated beneficiary" means the person designated by a member or payment recipient to
27 receive any survivorship benefits, lump-sum payments, or benefit from a retirement account upon the death of
28 the member or payment recipient, including annuities derived from the benefits or payments.
- 29 (18) "Disability" or "disabled" means a total inability of the member to perform the member's duties by
30 reason of physical or mental incapacity. The disability must be incurred while the member is an active member

1 and must be one of permanent duration or of extended and uncertain duration, as determined by the board on
2 the basis of competent medical opinion.

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

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

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

11 (22) "Essential elements of the position" means fundamental job duties. An element may be considered
12 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 (23) "Fiscal year" means a plan year, which is any year commencing with July 1 and ending the following
17 June 30.

18 (24) "Inactive member" means a member who ~~is not an active or retired member~~ terminates service and
19 does not retire or take a refund of the member's accumulated contributions.

20 (25) "Internal Revenue Code" has the meaning provided in 15-30-101.

21 (26) "Member" means either:

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

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

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

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

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

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

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

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

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

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

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

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

16 (a) been terminated from service for at least 30 days; and

17 (b) has received and accepted a retirement benefit from a retirement plan.

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

21 (37) "Retirement benefit" means:

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

25 (b) in the case of the defined contribution plan, a benefit as defined in subsection (9)(b).

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

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

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

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

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

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

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

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

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

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

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

27 (47) "Termination of service", "termination from service", "terminated from service", "terminated service",
 28 "terminating service", or "terminates service" means that:

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

1 **(b) the member is no longer receiving compensation for covered employment; and**
 2 **(c) the member has been paid all compensation for compensatory leave, sick leave, or annual leave**
 3 **to which the member was entitled. For the purposes of this subsection (47)(b), compensation does not mean**
 4 **compensation as a result of a legal action, court order, or settlement to which the board was not a party.**

5 ~~(47)~~**(48)** "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a defined benefit
 6 retirement plan's actuarial liabilities at any given point in time over the value of its cash and investments on that
 7 same date.

8 ~~(48)~~**(49)** "Vested account" means an individual account within a defined contribution plan that is for the
 9 exclusive benefit of a member or the member's beneficiary. A vested account includes all contributions and the
 10 income on all contributions in each of the following accounts:

- 11 (a) the member's contribution account;
- 12 (b) the vested portion of the employer's contribution account; and
- 13 (c) the member's account for other contributions.

14 ~~(49)~~**(50)** "Vested member" or "vested" means:

15 (a) with respect to a defined benefit plan, a member or the status of a member who has ~~attained the~~
 16 ~~minimum membership service requirements to be eligible for retirement benefits under the retirement plan at~~
 17 ~~least 5 years of membership service;~~ or

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

20 ~~(50)~~**(51)** "Written application" or "written election" means a written instrument, prescribed by the board
 21 or required by law, properly signed and filed with the board, that contains all required information, including
 22 documentation that the board considers necessary."

23

24 **Section 2.** Section 19-2-502, MCA, is amended to read:

25 **"19-2-502. Payments from pension trust funds.** (1) The board shall administer the assets of the
 26 pension trust funds as provided in Article VIII, section 15, of the Montana constitution, subject to the specific
 27 provisions of chapters 2, 3, 5 through 9, and 13 of this title.

28 (2) Benefits and refunds to eligible recipients are payable pursuant to a contract as contained in statute.
 29 The contract is entered into on the first day of a member's covered employment and may be enhanced by the
 30 legislature. Unless specifically provided for by statute, the contract does not contain revisions to statutes after

1 the time of retirement or termination of membership."

2

3 **Section 3.** Section 19-2-602, MCA, is amended to read:

4 **"19-2-602. Refund of member's contributions on termination of service.** (1) Except as provided in
5 this section, any member ~~whose service has been discontinued~~ who has terminated service, other than by death
6 or retirement, must be paid the member's accumulated contributions upon the filing of a written application by
7 the member and board approval. Prior to termination of service, a member may not receive a refund of any
8 portion of the member's accumulated contributions.

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

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

15 (4) Upon the filing of a written application by an alternate payee eligible to receive a single distribution
16 of \$200 or more under 19-2-907 or 19-2-909 or by a member who is terminating member service and is eligible
17 to receive a refund of \$200 or more of accumulated contributions, the board shall make a direct rollover
18 distribution as allowed under Internal Revenue Code section 401(a)(31). The direct rollover distribution must be
19 paid directly to an eligible retirement plan allowed under applicable federal law. The applicant is responsible for
20 designating an eligible retirement plan on forms provided by the board. The portion of the account not eligible
21 for direct rollover distribution must be paid directly to the recipient."

22

23 **Section 4.** Section 19-2-703, MCA, is amended to read:

24 **"19-2-703. No duplication of benefits for same period of service.** (1) A member may not receive
25 service credit or membership service in more than one retirement system, plan, or program under Title 19 for
26 the same ~~period of~~ service.

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

29

30 **Section 5.** Section 19-2-704, MCA, is amended to read:

1 **"19-2-704. Purchasing service credits allowed -- payroll deduction.** (1) Subject to the rules
2 promulgated by the board, an eligible member may elect to ~~contribute amounts in addition to the mandatory~~
3 ~~employee contributions required by the member's retirement system~~ make additional contributions to purchase
4 service credits as provided by the statutes governing the retirement system.

5 (2) Subject to any statutory provision establishing stricter limitations, only active or vested inactive
6 members are eligible to purchase or transfer service credit, membership service, or contributions.

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

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

14 (5) To elect installment payments by irrevocable payroll deduction, the member shall file with the board
15 and the member's employer an irrevocable, written application and authorization for payroll deductions. The
16 application and authorization:

17 (a) must be signed by the member and the member's employer;

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

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

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

24 (e) must specify that the additional contributions being picked up, although designated as employee
25 contributions, are being paid by the employer directly to the board in lieu of contributions paid directly by the
26 employee.

27 (6) If the board notifies the employer that a proper written application and authorization has been filed
28 with the board, the employer shall initiate the payroll deduction as follows:

29 (a) An employer shall pick up the member's elective additional contributions made pursuant to a payroll
30 deduction authorization. The contributions picked up by the employer must be paid from the same source as is

1 used to pay compensation to the member and must be included as part of the member's earned compensation
2 before the deduction is made.

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

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

7 (d) The effective date of the employer pickup and payment pursuant to this section is the date on which
8 the ~~employee~~ employee's additional contribution is first deducted from the employee's compensation. However,
9 the effective date may not be prior to the date that the member properly completes the written application and
10 authorization for payroll deductions and files it with the board. The pickup may not apply to any additional
11 contributions made before the effective date or to any contributions related to compensation earned for services
12 rendered before the effective date.

13 (e) Installment payments initiated by contract prior to July 1, 1999, may be paid by payroll deduction
14 only if the member files a written application and authorization for payroll deductions pursuant to this section.
15 If the member does not file a written application and authorization for payroll deductions pursuant to this section,
16 the installment contract payments agreed to by the member must be paid by the member directly to the board.

17 (f) A member may file more than one irrevocable payroll deduction agreement and authorization as long
18 as a subsequent deduction authorization does not amend a previous irrevocable authorization. A member may
19 not prepay an amount under an irrevocable payroll deduction, except when a member with an existing contract
20 to purchase service credit elects to transfer to the defined contribution retirement plan pursuant to 19-3-2111(7)
21 or to the optional retirement program pursuant to 19-3-2112(2)(j).

22 (7) If a member terminates ~~service~~ employment or dies before completing all payments required by a
23 payroll deduction authorization filed pursuant to this section, the deduction authorization expires and the board
24 shall prorate the service credit based on the amount paid ~~as of the date of termination~~ unless further payment
25 is made as provided in this subsection. In the case of a termination from employment, the member may make
26 a lump-sum payment for up to the balance of the service credit remaining to be purchased, subject to the
27 limitations of section 415 of the Internal Revenue Code. In the case of death of the member, the payment may
28 be made from the member's estate subject to the limitations of section 415 of the Internal Revenue Code."
29

30 **Section 6.** Section 19-2-706, MCA, is amended to read:

1 **"19-2-706. Additional service credit for active member involuntarily terminated from service**
 2 **employment.** (1) ~~An~~ The provisions of subsection (3) apply to an employee of the state or university system is
 3 ~~entitled to the involuntary termination provision provided in subsection (3)~~ if:

4 (a) the employee is a ~~a~~ an active member of the public employees', game wardens' and peace officers',
 5 sheriffs', ~~firefighters' unified,~~ or highway patrol officers' retirement system;

6 (b) ~~the employee's active service employee is~~ has involuntarily terminated ~~terminated from employment~~
 7 because of elimination of the employee's position as a result of privatization, reorganization of an agency,
 8 closure of or a reduction in force at an agency, or other actions by the legislature or, in the case of a member
 9 who is a legislator, because of term limits terminating the service of the legislator ~~the legislator is terminated from~~
 10 office in either one of the houses of the legislature because of term limits;

11 (c) the employee is eligible for service retirement or early retirement under the applicable provisions
 12 of the retirement system to which the member belongs; and

13 (d) the employee waives ~~termination~~ the rights and benefits for which the employee would otherwise
 14 be eligible under the State Employee Protection Act.

15 (2) The cost of each year of service credit purchased under this section is the total actuarial cost of
 16 purchasing the service credit based on the most recent actuarial valuation of the retirement system.

17 (3) The employer of an eligible member under subsection (1) shall pay a portion of the total cost of
 18 purchasing up to 3 years of additional service credit that the member was qualified to purchase under 19-3-513,
 19 19-6-804, 19-7-804, ~~or~~ 19-8-904, or 19-13-405. The employer-paid portion must be calculated using the formula
 20 $A \times B \times C$ when:

21 (a) A is equal to a maximum of 3 additional years of service credit that the member is eligible to
 22 purchase;

23 (b) B is equal to the sum of the employer and employee contribution rates in the member's retirement
 24 system; and

25 (c) C is equal to the member's gross compensation paid during the immediate preceding 12 months
 26 of membership service. The employer may not be charged more than the total actuarial cost of the service credit
 27 purchased ~~by the terminated employee~~.

28 (4) The member shall pay the difference, if any, between the full actuarial cost of the service credit to
 29 be purchased and the contribution required from the employer under subsection (3). ~~A~~ The member may elect
 30 to purchase less than the full amount of service for which the member is eligible under this section, but the

1 election may not reduce the amount of the employer's contribution as calculated under subsection (3).

2 (5) The board may allow an employer to pay the contributions required under subsection (3) in
3 installments for up to 10 years and may charge interest at a rate set by the board pursuant to 19-2-403.

4 (6) (a) A member who has received additional service credit under this section and who returns to
5 employment for the same jurisdiction for 960 or more hours in a calendar year in ~~a position covered by the public~~
6 ~~employees' retirement system or for 600 or more hours in a calendar year in a position covered under any other~~
7 retirement system forfeits the additional service credit. The employer's contribution to purchase that member's
8 additional service credit, minus any retirement benefits already paid, must be credited to the employer.

9 (b) As used in subsection (6)(a), the term "same jurisdiction" means all agencies of the state, including
10 the university system."
11

12 **Section 7.** Section 19-2-903, MCA, is amended to read:

13 **"19-2-903. Adjustment of errors in payments.** (1) If the amount of a contribution payment is incorrect,
14 the board may reject the payment or accept the payment and approve any of the following methods to collect
15 the correct amount:

- 16 (a) adjustment of subsequent payments from a member or an employer;
- 17 (b) installment payments or a lump-sum payment from an employer; or
- 18 (c) a lump-sum payment or a rollover from a member.

19 (2) If a purchase of service credit made pursuant to 19-2-704 is determined to be incorrect, the board
20 may approve correcting the error by any of the following methods:

- 21 (a) adjusting the subsequent lump-sum or installment payments from the member or the member's
22 employer;
- 23 (b) accepting a lump-sum payment or rollover from the member for the amount underpaid; or
- 24 (c) granting the member service credit proportional to the amount actually paid.

25 ~~(2)(3) If any fraudulent change or any inadvertent mistake in records fraud or error results in any a~~
26 member, survivor, or beneficiary receiving more or less than entitled to, then on the discovery of the error, the
27 board shall correct the error and, if necessary, equitably adjust the payments ~~to the member, survivor, or~~
28 ~~beneficiary in an equitable manner."~~

29

30 **Section 8.** Section 19-2-907, MCA, is amended to read:

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

3 (2) For purposes of this section:

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

8 (b) "participant" means an identified person who is a member or an actual or potential beneficiary,
9 survivor, or contingent annuitant of a retirement system or plan designated pursuant to Title 19, chapter 3, 5,
10 6, 7, 8, 9, 13, or 17.

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

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

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

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

21 (5) With respect to a defined benefit plan, a family law order may provide for payment to an alternate
22 payee only as follows:

23 (a) Retirement benefit payments or refunds may be apportioned by directing payment of either a
24 percentage of the amount payable or a fixed amount of no more than the amount payable to the participant.
25 Payments to an alternate payee may be limited to a specific amount each month if the number of payments is
26 specified.

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

1 amount that may be apportioned to an alternate payee.

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

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

7 (6) With respect to a defined contribution plan, a family law order may provide for payment to an
8 alternate payee only as follows:

9 (a) The vested account of the participant may be apportioned by directing payment of either a
10 percentage or a fixed amount. The total amount apportioned may not exceed the amount in the participant's
11 vested account. The alternate payee may receive the payment only as a direct payment, rollover, or transfer.
12 A new account may ~~not~~ be established for an alternate payee, but money in the account must be totally
13 disbursed to the alternate payee as soon as feasible upon the participant's termination of service or death.

14 (b) If the participant is receiving periodic payments or an annuity provided under the plan, those
15 payments may be apportioned as a percentage of the amount payable to the participant. Payments to the
16 alternate payee may be limited to a specific amount each month if the number of payments is specified.
17 Payments may not total more than the amount payable to the payee.

18 (7) The duration of monthly payments apportioned from a defined benefit or defined contribution plan
19 participant to an alternate payee may not exceed the lifetime of the appropriate participant. The duration of the
20 monthly payments may be further limited only to a specified maximum time, the life of the alternate payee, or
21 the life of another specified participant. The alternate payee's rights and interests survive the alternate payee's
22 death and may be transferred by inheritance.

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

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

28 (10) The board shall adopt rules to provide for the administration of family law orders."
29

30 **Section 9.** Section 19-2-908, MCA, is amended to read:

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

6 (b) A member may apply for retirement benefits before ~~terminating service~~ termination from
7 employment, but commencement of the benefits must be as provided in this section.

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

11 (b) If an elected official's term of office expires before the 15th day of the month, the official may elect
12 that service retirement benefits from a defined benefit plan commence on the first day of the month following
13 the official's last full month in office. An official electing this option shall file a written application with the board.
14 An official electing this option may not earn membership service, service credit, or compensation for purposes
15 of calculating highest average compensation or final average compensation, as defined under the provisions
16 of the appropriate retirement system, in the partial month ending the official's term, and compensation earned
17 in that partial month is not subject to employer or employee contributions.

18 (3) The disability retirement benefit payable to a member must commence on the day following the
19 member's termination from ~~service~~ employment.

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

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

23 (6) With respect to the defined contribution plan, the board shall adopt rules regarding the
24 commencement of benefits that are consistent with applicable provisions of the Internal Revenue Code and its
25 implementing regulations."
26

27 **Section 10.** Section 19-2-909, MCA, is amended to read:

28 **"19-2-909. Execution or withholding for support obligation -- rulemaking.** (1) Benefits in the
29 retirement systems or plans provided for in chapters 3, 5 through 9, 13, and 17 are subject to execution and
30 income withholding for the payment of a participant's support obligation.

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

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

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

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

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

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

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

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

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

18 (a) Retirement benefit payments or refunds may be apportioned by directing payment of a percentage
19 of the amount payable or payment of a fixed amount of no more than the amount payable to the participant.

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

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

26 (5) With respect to a defined contribution plan, an execution or income-withholding order may provide
27 for payment to an alternate payee only as follows:

28 (a) The vested account of the participant may be apportioned by directing payment of either a
29 percentage or a fixed amount. The total amount apportioned may not exceed the amount in the participant's
30 vested account. The alternate payee may receive the payment only as a direct payment, rollover, or transfer.

1 A new account may not be established for an alternate payee, but money in the account must be totally
 2 disbursed to the alternate payee as soon as feasible upon the participant's termination of service or death.

3 (b) If the participant is receiving periodic payments or an annuity provided under the plan, those
 4 payments may be apportioned as a percentage of the amount payable to the participant. Payments to the
 5 alternate payee may be limited to a specific amount each month if the number of payments is specified.
 6 Payments may not total more than the amount payable to the payee.

7 (6) The duration of monthly or other periodic payments apportioned from a defined benefit or defined
 8 contribution plan participant to an alternate payee may not exceed the lifetime of the appropriate participant. The
 9 duration of the monthly payments may be further limited only to a specified maximum time, the life of the
 10 alternate payee, or the life of another specified participant. The alternate payee's rights and interests survive the
 11 alternate payee's death and may be transferred by inheritance.

12 (7) The board shall adopt rules to provide for the administration of execution or income-withholding
 13 orders."
 14

15 **Section 11.** Section 19-3-108, MCA, is amended to read:

16 **"19-3-108. (Temporary) Definitions.** Unless the context requires otherwise, as used in this chapter,
 17 the following definitions apply:

18 (1) (a) "Compensation" means remuneration paid out of funds controlled by an employer in payment
 19 for the member's services, or for time during which the member is excused from work because of a holiday or
 20 because the member has taken compensatory leave, sick leave, annual leave, or a leave of absence, before
 21 any pretax deductions allowed by state or federal law are made.

22 (b) Compensation does not include:

23 (i) ~~the payments or contributions made in lieu of wages for an individual subject pursuant to~~
 24 ~~19-3-403(4)(a) for members of a bargaining unit;~~

25 (ii) in-kind goods provided by the employer, such as uniforms, housing, transportation, or meals;

26 (iii) in-kind services, such as the retraining allowance paid pursuant to 2-18-622, or employment-related
 27 services;

28 (iv) contributions to group insurance, such as that provided under 2-18-701 through 2-18-704; and

29 (v) lump-sum payments for compensatory leave, sick leave, or annual leave paid without termination
 30 of employment.

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

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

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

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

11 (6) (a) "Highest average compensation" means a member's highest average monthly compensation
12 during any 36 consecutive months of membership service, except as otherwise provided in subsection (6)(b)
13 or (6)(c).

14 (b) For or, with respect to a member who has attained 65 years of age but has not served at least 36
15 months, highest average compensation means total compensation earned divided by the number of months the
16 member has served.

17 (c) For a vested member who does not have 36 consecutive months of membership service, highest
18 average compensation means the highest total compensation earned during any 36 consecutive calendar
19 months divided by 36.

20 (d) Lump-sum payments for severance pay, including payment for compensatory leave, sick leave, and
21 annual leave, paid to the member upon termination of employment may be used in the calculation of a retirement
22 benefit only to the extent that they are used to replace, on a month-for-month basis, the regular compensation
23 for a month or months included in the calculation of the highest average compensation. A lump-sum payment
24 may not be added to a single month's compensation.

25 (7) "System" or "retirement system" means the public employees' retirement system established in
26 19-3-103.

27 **19-3-108. (Effective July 1, 2005) Definitions.** Unless the context requires otherwise, as used in this
28 chapter, the following definitions apply:

29 (1) (a) "Compensation" means remuneration paid out of funds controlled by an employer in payment
30 for the member's services, or for time during which the member is excused from work because of a holiday or

1 because the member has taken compensatory leave, sick leave, annual leave, or a leave of absence, before
2 any pretax deductions allowed by state or federal law are made.

3 (b) Compensation does not include:

4 (i) ~~the payments or contributions made in lieu of wages for an individual subject pursuant to~~
5 19-3-403(4)(a) for members of a bargaining unit;

6 (ii) in-kind goods provided by the employer, such as uniforms, housing, transportation, or meals;

7 (iii) in-kind services, such as the retraining allowance paid pursuant to 2-18-622, or employment-related
8 services;

9 (iv) contributions to group insurance, such as that provided under 2-18-701 through 2-18-704; and

10 (v) lump-sum payments for compensatory leave, sick leave, or annual leave paid without termination
11 of employment.

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

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

16 (4) "Employer" means the state of Montana, its university system or any of the colleges, schools,
17 components, or units of the university system for the purposes of this chapter, or any contracting employer.

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

20 (6) (a) "Highest average compensation" means a member's highest average monthly compensation
21 during any 36 consecutive months of membership service, except as otherwise provided in subsection (6)(b)
22 or (6)(c).

23 (b) For or, with respect to a member who has attained 65 years of age but has not served at least 36
24 months, highest average compensation means total compensation earned divided by the number of months the
25 member has served.

26 (c) For a vested member who does not have 36 consecutive months of membership service, highest
27 average compensation means the highest total compensation earned during any 36 consecutive calendar
28 months divided by 36.

29 (d) Lump-sum payments for severance pay, including payment for compensatory leave, sick leave, and
30 annual leave, paid to the member upon termination of employment may be used in the calculation of a retirement

1 benefit only to the extent that they are used to replace, on a month-for-month basis, the regular compensation
 2 for a month or months included in the calculation of the highest average compensation. A lump-sum payment
 3 may not be added to a single month's compensation.

4 (7) "System" or "retirement system" means the public employees' retirement system established in
 5 19-3-103."
 6

7 **Section 12.** Section 19-3-112, MCA, is amended to read:

8 **"19-3-112. Education fund established -- allocation of employer contributions -- educational**
 9 **program requirements.** (1) (a) The board shall establish an education fund ~~and provide for educational~~
 10 ~~programs for~~ to be used to educate and inform system members in a manner consistent with the provisions of
 11 this section.

12 (b) For the ongoing educational ~~services~~ and communication ~~programs services~~ established pursuant
 13 to this section, from the employer contributions made pursuant to 19-3-316, 0.04% of ~~covered payroll~~ the
 14 compensation paid to all of the employer's employees who are members of the system must be allocated to the
 15 education fund established in subsection (1)(a). The board shall from time to time review the sufficiency of this
 16 amount and recommend to the legislature the adjustments that it considers appropriate.

17 (2) (a) The educational ~~programs services~~ must provide system members with impartial and balanced
 18 information about plan choices, benefits, and features. The ~~programs services~~ must ~~involve multimedia~~ be
 19 provided in a variety of formats. Plan comparisons must, to the greatest extent possible, be based upon ~~real~~
 20 historical rates of return on investments or benefits available in each retirement plan.

21 (b) If ~~an educational program is~~ services are conducted by a contractor, the board shall monitor the
 22 performance of the contract to ensure that the ~~program is~~ services are conducted in accordance with the
 23 contract, applicable law, and the rules of the board. A contractor hired to provide the educational services
 24 ~~pursuant to this section~~ program provided for in subsection (3) may not be the same entity contracted to provide
 25 other services for the defined contribution plan or the optional retirement program.

26 (3) The board shall ~~provide for an initial and~~ offer an ongoing transfer educational program to provide
 27 new system members with information necessary to make informed plan choice decisions. The ~~transfer~~
 28 ~~educational~~ program must include but is not limited to information on:

29 (a) determining the amount of money available ~~to a member~~ to transfer to the defined contribution plan;

30 (b) the features of and differences between the defined benefit plan and the defined contribution plan,

1 both generally and specifically, as those differences may affect the member;

2 (c) the expected benefit available if the member were to retire under each of the retirement plans, based
3 on appropriate alternative sets of assumptions;

4 (d) the ~~aggregate~~ rate of return from investments in the defined contribution plan ~~and the period of time~~
5 ~~over which the aggregate rate of return that~~ must be achieved to equal or exceed the expected monthly benefit
6 payable to the member under the defined benefit plan, assuming the same time period in each plan;

7 (e) the historical rates of return for the investment alternatives available in the defined contribution plan;

8 (f) ~~the benefits and historical rates of return on investments available in deferred compensation plans~~
9 ~~or a plan under section 403(b) of the Internal Revenue Code for which the employee may be eligible~~ determining
10 retirement income needs and comparing determined retirement income needs to each plan's possible or
11 expected benefit;

12 (g) use of supplemental retirement savings programs to enhance retirement income;

13 ~~(g)(h)~~ the plan choices available to employees of the university system pursuant to 19-3-2112 and the
14 comparative benefits of each available plan; and

15 ~~(h)(i)~~ payout options available in each of the retirement plans.

16 (4) ~~An ongoing~~ Ongoing educational services and communication program services must ~~provide~~ be
17 provided after members of either plan have made their initial retirement plan choice. These services must
18 continually provide members with information necessary to make informed decisions about choices within their
19 chosen plan of membership and in preparation, alternatives within their chosen plan, and decisions necessary
20 for retirement preparation. The program services must include but not be limited to information concerning:

21 (a) rights and conditions of membership;

22 (b) benefit features within the plan, options, and the effects of certain decisions;

23 (c) planning for retirement, including coordination of contributions and benefits with a deferred
24 ~~compensation plan under section 457 of the Internal Revenue Code or a plan under section 403(b) of the~~
25 ~~Internal Revenue Code~~ supplemental retirement savings programs;

26 (d) significant plan changes; and

27 (e) contribution rates and plan funding status; and

28 ~~(f) planning for retirement.~~

29 (5) The board shall also establish a communication program to provide plan information to participating
30 employers and the employer's personnel and payroll officers and to explain their respective responsibilities in

1 conjunction with the retirement plans.

2 (6) This section does not prohibit a contracted plan vendor or vendors from providing system members
3 with information and tools necessary to ~~make informed decisions about the defined contribution plan or the~~
4 ~~optional retirement program and~~ understand the available investment alternatives ~~within the defined contribution~~
5 ~~plan or the optional retirement program~~ and to appropriately manage their selected retirement plan."

6

7 **Section 13.** Section 19-3-201, MCA, is amended to read:

8 **"19-3-201. Contracts with political subdivisions.** (1) Any municipal corporation, county, or public
9 agency in the state may become a contracting employer and make all or specified groups of its employees
10 members of the retirement system by a contract entered into between the board and the legislative body of the
11 contracting employer. The contract may include any provisions that are consistent with chapter 2 and this
12 chapter and necessary in the administration of the retirement system as it affects the contracting employer and
13 its employees.

14 (2) The approval of the contract is subject to the following provisions, in addition to the other provisions
15 of chapter 2 and this chapter:

16 (a) The legislative body of the contracting employer shall adopt a resolution ~~giving notice~~ of intention
17 to approve the contract and containing a summary of the major provisions of the retirement system. The contract
18 may not be approved unless the employees proposed to be included in the retirement system adopt the proposal
19 by a majority affirmative vote in a secret ballot. The ballot at the election must include the summary of the
20 retirement system as set forth in the resolution. The election must be conducted as prescribed by the legislative
21 body of the contracting employer. Approval of the contract must be ~~by ordinance adopted~~ by the affirmative vote
22 of two-thirds of the members of the legislative body; within ~~20~~ 40 days after the adoption of the resolution ~~or by~~
23 ~~an ordinance adopted by a majority vote of the electorate of the contracting employer voting on the contract.~~

24 (b) The contract must specify that ~~all employees of the contracting employer or groups of employees~~
25 ~~as agreed to between the board and the contracting employer shall become members. The groups of employees~~
26 ~~to be included must be by departments, duties, or other similar classifications and not by individual employees.~~
27 ~~The board may disapprove any classification into groups if, in its opinion, the classification affects adversely the~~
28 ~~interest of the retirement system. Membership in the~~ provisions of the retirement system ~~is compulsory for~~ apply
29 to all employees who are included under the contract and who are on the effective date of the contract and to
30 all employees hired after the effective date of the contract. An employee's membership in either the defined

1 benefit plan or the defined contribution plan is determined on an individual basis as provided in this chapter.

2 (c) The contract may be amended in the manner prescribed in this section for the original approval of
 3 contracts. ~~Groups of excluded employees may be subsequently included by amendment.~~ The contract must be
 4 approved by the board. The board may disapprove of a contract if, in the board's sole discretion, the contract
 5 adversely affects the interests of the retirement system. Any amendments to the retirement system made
 6 pursuant to Montana laws immediately apply to and become a part of the contract.

7 (3) The termination of the contract is subject to the following provisions, in addition to the other
 8 provisions of this chapter:

9 (a) The legislative body of a contracting employer shall adopt a resolution giving notice to its employees
 10 that it intends to terminate retirement system coverage.

11 (b) All employees covered under the retirement system must be given notice of the termination
 12 resolution and be permitted to vote for or against the resolution by secret ballot.

13 (c) If a majority of covered employees votes for termination, the legislative body, within 20 days after
 14 the approval of the resolution by the employees, may adopt by a two-thirds majority a resolution terminating
 15 coverage under the system effective the last day of that month and forward the resolution and a certified copy
 16 of the election results to the board.

17 (d) Upon receipt of the termination resolution, the board may request an actuarial valuation of the
 18 liabilities of the terminating agency to the retirement system, and the board may withhold approval of the
 19 termination of contract until satisfactory arrangements are made to provide funding for any excess accrued
 20 liabilities not previously funded by the terminating agency."

21

22 **Section 14.** Section 19-3-316, MCA, is amended to read:

23 **"19-3-316. Employer contribution rates.** (1) Each employer shall contribute to the system. Except as
 24 provided in subsection (2), ~~the amount of the employer contribution as a percentage of the employer's covered~~
 25 ~~payroll is~~ shall pay as employer contributions 6.9% of the compensation paid to all of the employer's employees,
 26 except those properly excluded from membership. Of employer contributions made under this subsection for
 27 both defined benefit plan and defined contribution plan members, a portion must be allocated for educational
 28 programs as provided in 19-3-112. Employer contributions for members under the defined contribution plan must
 29 be allocated as provided in 19-3-2117.

30 (2) Local government and school district employer contributions must be the total employer contribution

1 rate provided in subsection (1) minus the state contribution rate applied to their monthly covered payrolls under
2 19-3-319."

3

4 **Section 15.** Section 19-3-318, MCA, is amended to read:

5 **"19-3-318. Credit of ~~employer contribution contributions~~ made after termination ~~member~~**
6 **becomes inactive.** ~~Employer contributions~~ Contributions made on the basis of compensation earned by
7 members after the effective date of termination of membership because of membership in another system; they
8 are considered to be inactive members, as provided in 19-3-403(4), must be credited to the employer."

9

10 **Section 16.** Section 19-3-319, MCA, is amended to read:

11 **"19-3-319. State contributions for local government and school district employers.** The state shall
12 contribute monthly from the general fund to the pension trust fund a sum equal to 0.1% of the compensation of
13 ~~members employed by~~ paid to all employees of local government entities and school districts on and after July
14 1, 1997, except those properly excluded from membership. The board shall certify amounts due under this
15 section on a monthly basis, and the state treasurer shall transfer those amounts to the pension trust fund within
16 1 week. The payment is statutorily appropriated as provided in 17-7-502."

17

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

19 **"19-3-401. Membership -- inactive vested members -- inactive nonvested members.** (1) Except
20 as otherwise provided in this chapter, all employees shall become members of the defined benefit plan on the
21 first day of service. Each employer shall file with the board information affecting their employees' status as
22 members as the board may require. An employee may become a member of the defined contribution plan only
23 as provided in Title 19, chapter 3, part 21.

24 (2) (a) ~~A~~ An inactive member of the defined benefit plan with at least 5 years of membership service
25 who terminates service and does not take a refund of the member's accumulated contributions is an inactive
26 vested member and retains the right to purchase service credit and to receive a service retirement benefit
27 subject to the provisions of this chapter.

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

1 (3) ~~(a) An inactive~~ member of the defined benefit plan with less than 5 years of membership service
 2 ~~who terminates service and leaves the member's accumulated contributions in the pension trust fund~~ is an
 3 inactive nonvested member and is not eligible for any benefits from the retirement plan.

4 (b) An inactive nonvested member of the defined benefit plan is eligible only for a refund of the
 5 member's accumulated contributions.

6 (4) ~~A~~ Except as otherwise provided in this chapter, a member of either the defined benefit plan or the
 7 defined contribution plan ~~who is an active member of the system and is not eligible for a refund of contributions~~
 8 or for benefit payments if the member either:

9 (a) ~~returns to service within 30 days of termination of service is an active member. Except as otherwise~~
 10 ~~provided in this chapter, a member of either the defined benefit plan or the defined contribution plan who~~
 11 employment; or

12 (b) ~~terminates one service employment but remains employed in another service or subsequently~~
 13 ~~reenters service is an active member~~ position covered by the system.

14 (5) Time during which an employee of a school district is absent from service during official vacation
 15 is counted as membership service in determining eligibility for retirement benefits."
 16

17 **Section 18.** Section 19-3-403, MCA, is amended to read:

18 **"19-3-403. Exclusions from membership.** The following persons may not become members of the
 19 retirement system:

20 (1) inmates of state institutions;

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

22 (3) independent contractors;

23 (4) persons who are members of any other retirement or pension system supported wholly or in part
 24 by funds of the United States government, any state government, or political subdivision of the state and who
 25 are receiving credit in the other system for employment. It is the purpose of this subsection to prevent a person
 26 from receiving credit for the same employment in two retirement systems supported wholly or in part by public
 27 funds, except when the service qualifies and is applied for and the service credit is purchased pursuant to
 28 19-3-503. A member of the retirement system who, because of employment by the state, is required to become
 29 a member of any other system described in this subsection is considered, ~~solely for the purposes of making~~
 30 regular contributions, as permanently separated from service with regard to that employment, an inactive

1 member of the retirement system, except that the member is not eligible for retirement or a refund of the
 2 member's accumulated contributions. Exclusion under this subsection is subject to the following exceptions:

3 (a) ~~When~~ The employees of an employer who has entered into a collective bargaining agreement ~~that~~
 4 ~~includes provisions for payments or contributions by the employer in lieu of wages to a retirement or involving~~
 5 a multiemployer pension plan qualified by the internal revenue service for its employees, the employees and that
 6 requires contributions by the employer for the members of the bargaining unit remain eligible, if otherwise
 7 qualified, for membership in the retirement system.

8 (b) For the purpose of this subsection (4), persons receiving pensions, retirement benefits, or other
 9 payments from any source on account of employment other than as an employee are not considered, because
 10 of receipt, members of any other retirement or pension system.

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

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

19

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

21 **"19-3-412. Optional membership.** (1) Except as provided in subsection (2), the following employees
 22 and elected officials in covered ~~employment may~~ positions shall elect either to become active members of the
 23 retirement system or to decline this optional membership by filing an irrevocable, written application with the
 24 board ~~within 180 days of commencement of their employment~~ in the manner prescribed in subsection (3):

25 (a) elected officials of the state or local governments who:

26 (i) are paid on a salary or wage basis rather than on a per diem or other reimbursement basis; or

27 (ii) were members receiving retirement benefits under the defined benefit plan or a distribution under
 28 the defined contribution plan at the time of their election;

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

- 1 (c) employees directly appointed by the governor;
- 2 (d) employees working 6 months or less for the legislative branch to perform work related to the
3 legislative session;
- 4 (e) the chief administrative officer of any city or county;
- 5 (f) employees of county hospitals or rest homes.
- 6 (2) (a) Except as provided in subsection (2)(b), employees and officials described in subsections (1)(a)
7 through (1)(f) who are employees or officials but not members on July 1, 1999, have until December 1, 1999,
8 to file an irrevocable, written application with the board.
- 9 (b) A legislator may also become a member as of the date prior to December 30, 2000, that the
10 legislator filed an irrevocable written application with the board to become a member and paid the employee
11 share of contributions determined by the board to be required to purchase the legislator's prior service credit.
12 However, the legislator shall purchase at least 5 years of service credit or, if the legislator has less than 5 years
13 of membership service, service credit equal to all of the legislator's membership service. The legislative branch
14 is responsible for paying the amount determined by the board to be the employer's share of contributions
15 required to purchase a legislator's service credit under this subsection (2)(b).
- 16 (c) ~~(i) A member who is a local elected official and an active member on April 17, 2003, and who is
17 working in the member's elected position less than 960 hours in a calendar year may, until January 1, 2004,
18 decline optional membership with respect to the member's elected position.~~
- 19 ~~(ii) A member who after April 17, 2003, is elected to a local government position in which the member
20 works less than 960 hours in a calendar year may, within 180 days of being elected, decline optional
21 membership with respect to the member's elected position.~~
- 22 (3) ~~(a) If an employee declines optional membership, the employee shall sign a statement waiving
23 membership and file it with the employer. The board shall prescribe the form of the written application required
24 pursuant to subsection (1) and provide written application forms to each employer.~~
- 25 ~~(b) Each employee or elected official in a position covered under subsection (1) shall obtain the written
26 application form from the employer and complete and return it to the board.~~
- 27 ~~(c) The written application must be filed with the board within 180 days of the commencement of the
28 employee's or elected official's employment.~~
- 29 ~~(d) The employer shall file the statement with the board and retain a copy of the statement employee's
30 or elected official's written application.~~

1 (4) If the employee or elected official fails to file the written application required under subsection (1)
 2 with the board within the time allowed in subsection (3), the employee or elected official waives membership.

3 (5) An employee or elected official who declines optional membership may not receive membership
 4 service or service credit for the employment for which membership was declined.

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

9 ~~(5)(7) Membership~~ Except as provided in subsection (2)(c), membership in the retirement system is not
 10 optional for an employee or elected official who is already a member. Upon employment in a position for which
 11 membership is optional:

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

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

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

15 ~~(6)(8) (a)~~ An employee or elected official who declines membership ~~while employed in~~ for a position for
 16 which membership is optional may not later become a member while still employed in that position.

17 (b) If, after a break in service of 30 days or more, an employee who was ~~a member~~ employed in an
 18 optional membership position is reemployed in the same position or is employed in a different position for which
 19 membership is optional, the employee shall again choose or decline membership. ~~However, if~~

20 (c) If the break in service is less than 30 days, an employee who declined membership is bound by the
 21 employee's original decision to decline membership.

22 ~~(7)(9)~~ An employee accepting a position that requires membership shall become a member even if the
 23 employee previously declined membership and did not have a 30-day break in service.

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

26
 27 **Section 20.** Section 19-3-505, MCA, is amended to read:

28 **"19-3-505. Purchase of previous employment with employer.** (1) Subject to the provisions of this
 29 section, a member who has employment for which optional membership was declined or employment with an
 30 employer prior to the employer's contract coverage may file a written application with the board to purchase all

1 or a portion of the employment for service credit and membership service. The application must include salary
2 information certified by the member's employer or former employer.

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

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

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

15 (d) If the employer establishes a policy under subsection (2)(c) of nonpayment, the member shall pay
16 the amount not paid by the employer in order to receive service credit and membership service for the period
17 of employment."

18

19 **Section 21.** Section 19-3-908, MCA, is amended to read:

20 **"19-3-908. Retirement incentive program -- window of eligibility.** (1) Except as provided in
21 subsection (4), a person who is an active member on February 1, 1993, and who voluntarily terminates service
22 or ~~whose service~~ who is involuntarily terminated from service because of a reduction in force on or after June
23 25, 1993, but before January 1, 1994, and who is eligible for a normal service retirement under 19-3-901 or early
24 retirement under 19-3-902 is entitled to the retirement incentive provided in subsection (2).

25 (2) (a) The employer of an eligible member under subsection (1) shall pay the total cost of purchasing
26 up to 3 years of additional service credit that the member is qualified to purchase under 19-3-513.

27 (b) The department of revenue shall pay the cost of purchasing up to 3 years of additional service credit
28 for qualifying county assessors and deputy assessors eligible under subsection (1) whose employing county has
29 not elected for participation in the incentive program as provided in subsection (4).

30 (c) A member is entitled to a refund for that portion of previously purchased additional service that would

1 otherwise cause the member to be unqualified to receive all or part of the additional service credit provided in
2 this section.

3 (3) An active member who is involuntarily terminated from service because of a reduction in force on
4 or after March 1, 1993, but before June 25, 1993, and who, if the member had not been terminated from service,
5 would have been eligible under subsection (1) for the retirement incentive is entitled to the retirement incentive
6 under subsection (2) if the member was, at the time of termination from service, eligible for service retirement
7 under 19-3-901 or early retirement under 19-3-902 and retires on or after June 25, 1993.

8 (4) Subject to subsection (2)(b), a contracting employer's participation in the incentive program
9 described in this section is optional. A contracting employer may elect to provide the incentive by filing with the
10 board a written notice of election on or before June 1, 1993, and complying with rules adopted pursuant to
11 subsection (6).

12 (5) County assessors and deputy assessors are eligible for the incentive program even if the employing
13 county has not elected to participate in the incentive program.

14 (6) The board may allow an employer to pay the contributions required under subsection (2)(a) in
15 installments for up to 10 years and may charge interest at a rate set by the board pursuant to 19-2-403. The
16 board shall adopt rules to implement the provisions of this section.

17 (7) A member who has received additional service under this section and who returns to employment
18 for the same jurisdiction for 960 or more hours in a calendar year in a position covered by the public employees'
19 retirement system or for 600 or more hours in a calendar year in a position covered under any other retirement
20 system shall forfeit the additional service. The employer's contributions to purchase that member's additional
21 service credit, minus any retirement benefits already paid, must be refunded to the employer. For purposes of
22 this subsection, all agencies of the state, including the university system, are considered the same jurisdiction
23 and other public employers contracting with the retirement system are each considered separate jurisdictions."
24

25 **Section 22.** Section 19-3-1002, MCA, is amended to read:

26 **"19-3-1002. Eligibility for disability retirement.** (1) Except as provided in subsections (2) and (3), a
27 member entering service prior to February 24, 1991, who is not eligible for service retirement or early retirement
28 but who has at least 5 years of membership service and has become disabled while an active member is eligible
29 for disability retirement, as provided in ~~19-3-1008(1)~~ 19-3-1008.

30 (2) An active member who is 60 years of age or older and who has completed 5 years of membership

1 service and has had a duty-related accident forcing the member to terminate employment but who has not
2 received or is ineligible to receive workers' compensation benefits under Title 39, chapter 71, for the duty-related
3 accident may conditionally waive the member's eligibility for a service retirement in order to be eligible for
4 disability retirement. The waiver is effective only upon approval by the board of the member's written application
5 for disability retirement. The board shall determine whether a member has become disabled. The board may
6 request any information on file with the state compensation insurance fund concerning any duty-related accident.
7 If information is not available, the board may request and the state fund shall then provide an investigative report
8 on the disabling accident.

9 (3) (a) A member in service on February 24, 1991, has a one-time election to be covered for disability
10 purposes under the provisions of 19-3-1008(2). This election is irrevocable and must be made in writing by the
11 member no later than December 31, 1991. Coverage under the provisions of 19-3-1008(2) commences on the
12 date the completed written election is received by the board or its designated representative. To be eligible for
13 disability benefits under the provisions of this part, a member must have completed 5 years of membership
14 service and must have become disabled while an active member.

15 (b) An individual becoming a member after February 24, 1991, who has completed 5 years of
16 membership service and has become disabled while an active member is covered for disability purposes under
17 the provisions of 19-3-1008(2) or (3)."
18

19 **Section 23.** Section 19-3-1005, MCA, is amended to read:

20 "**19-3-1005. Application for disability retirement benefit.** The board shall grant a disability retirement
21 benefit to any active or inactive member who has fulfilled the eligibility requirements of 19-3-1002 and filed the
22 appropriate written application with the board. An application may be filed on a member's behalf by the head of
23 the office or department in which the member is or was last employed, by any other person on behalf of the
24 member, or by the board upon its own motion. The application must be filed within 4 months after the member's
25 termination from service employment unless the member is disabled continuously from the date of termination
26 from service employment to the date of the application."
27

28 **Section 24.** Section 19-3-1015, MCA, is amended to read:

29 "**19-3-1015. Medical examination of disability retiree -- cancellation and reinstatement.** (1) The
30 board may, in its discretion, require a disabled member to undergo a medical examination. The examination

1 must be made by a physician or surgeon appointed by the board, at a place mutually agreed upon by the retired
 2 member and the board. Upon the basis of the examination, the board shall determine whether the disabled
 3 member is unable, by reason of physical or mental incapacity, to perform the essential elements of either the
 4 position held by the member when the member retired or the position proposed to be assigned to the member.
 5 If the board determines that the member is not incapacitated or if the member refuses to submit to a medical
 6 examination, the member's disability retirement benefit must be canceled.

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

13 (3) (a) Except as provided in subsections (3)(b) and (3)(c), a member whose disability retirement benefit
 14 is canceled because the board has determined that the member is no longer incapacitated must be reinstated
 15 to the position held by the member immediately before the member's retirement or to a position in a comparable
 16 pay and benefit category with duties within the member's capacity if the member was an employee of the state
 17 or of the university. If the member was an employee of a contracting employer, the board shall notify the proper
 18 official of the contracting employer that the disability retirement benefit has been canceled and that the former
 19 employee is eligible for reinstatement to duty. The fact that the former employee was retired for disability may
 20 not prejudice any right to reinstatement to duty that the former employee may have or claim to have.

21 (b) A member who is employed by an employer ~~terminates~~ forfeits any right to reinstatement provided
 22 by this section.

23 (c) 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 reinstatement to
 25 duty.

26 (4) If a member whose disability retirement benefit is canceled is not reemployed in a position subject
 27 to the retirement system, the ~~member's service~~ member is considered, for the purposes of 19-2-602, to have
 28 ~~been discontinued~~ terminated service coincident with the commencement of the member's retirement benefit."
 29

30 **Section 25.** Section 19-3-1204, MCA, is amended to read:

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

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

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

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

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

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

13 (b) If an application is not filed on the minor's behalf and no payment has been made, the designated
 14 beneficiary may file a written application upon reaching the age of majority. For the purposes of this subsection
 15 (3)(b), the survivorship benefit provided for in 19-3-1205 must be calculated as if the member had died on the
 16 last day of the month before the month in which the application was filed."

17

18 **Section 26.** Section 19-3-1501, MCA, is amended to read:

19 **"19-3-1501. Optional forms of benefits -- designation of contingent annuitant.** (1) The retirement
 20 benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted,
 21 in lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent
 22 of the original benefit. ~~The~~ An optional retirement benefit is initially payable during the member's or designated
 23 beneficiary's lifetime, with a subsequent benefit, depending on the option selected, to a contingent annuitant as
 24 follows:

25 (a) option 2--a continuation of the ~~reduced amount~~ optional retirement benefit after the death of the
 26 initial payee and payable during the lifetime of the named contingent annuitant;

27 (b) option 3--a continuation of one-half of the ~~reduced amount~~ optional retirement benefit after the death
 28 of the initial payee and payable during the lifetime of the named contingent annuitant;

29 (c) option 4--~~upon~~ a continuation of the optional retirement benefit to one or more contingent annuitants
 30 in the event of the initial payee's death, other actuarially equivalent amounts payable to a contingent annuitant

1 ~~as may be approved by the board~~ before the end of a period certain, determined as follows:

2 (i) the period certain commences at the time that the initial payee first begins receiving the retirement
3 benefit and is available as either:

4 (A) a 10-year period certain if the member retired at 75 years of age or younger; or

5 (B) a 20-year period certain if the member retired at 65 years of age or younger;

6 (ii) if there is more than one surviving contingent annuitant, each contingent annuitant must receive a
7 proportion of the initial payee's benefit on a share and share alike basis.

8 (2) The member or the designated beneficiary who elects an optional retirement benefit shall file a
9 written application with the board prior to the first payment of the benefit. A contingent annuitant must be
10 identified on the application.

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

13 (4) If a member dies after retirement and within 30 days from the date that the member's written
14 application electing or changing an election of an optional retirement benefit is received by the board, then the
15 election is void.

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

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

20 (ii) the member's marriage to the original contingent annuitant has been dissolved and the original
21 contingent annuitant has no right to receive the optional retirement benefit as part of a family law order, as
22 defined in 19-2-907.

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

25 (6) (a) A retired member receiving an optional retirement benefit pursuant to subsection (1)(a) or (1)(b)
26 that is initially effective on or after October 1, 1999, may file a written application with the board to have the
27 optional retirement benefit revert to the regular retirement benefit available at the time of the member's
28 retirement, designate a different contingent annuitant, or select a different option if:

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

1 (ii) the member's marriage to the contingent annuitant is dissolved and the beneficiary has no right to
 2 receive the optional retirement benefit as part of a family law order, in which case the benefit must revert
 3 effective on the first day of the month following receipt of the written application and verification that the family
 4 law order does not grant the optional benefit to the contingent annuitant.

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

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

10

11 **Section 27.** Section 19-3-2104, MCA, is amended to read:

12 **"19-3-2104. Board powers and duties -- rulemaking.** (1) The board has the powers and shall perform
 13 the duties regarding the defined contribution plan as provided in 19-2-403, as applicable. The board may also
 14 exercise the powers and shall perform the duties provided in this chapter.

15 (2) The board shall, in accordance with the Montana Administrative Procedure Act, adopt rules
 16 necessary for the implementation of this part and other applicable sections in chapters 2 and 3 of this title;
 17 including rules concerning the following:

18 ~~—— (a) matters necessary for the treatment of the plan as a qualified plan under applicable sections of the~~
 19 ~~Internal Revenue Code;~~

20 ~~—— (b) the treatment of dormant or inactive accounts;~~

21 ~~—— (c) the security and privacy of information maintained by the board concerning a member's investments,~~
 22 ~~as required by applicable law;~~

23 ~~—— (d) minimum asset, reserve, insurance, or other security requirements intended to ensure the solvency~~
 24 ~~of a contractor used by the board for investment services; and~~

25 ~~—— (e) the commencement of benefits in the plan pursuant to this part and as provided in 19-2-908."~~

26

27 **Section 28.** Section 19-3-2111, MCA, is amended to read:

28 **"19-3-2111. Plan membership -- written election required -- failure to elect -- effect of election.**

29 (1) Except as otherwise provided in this part:

30 (a) (i) a member who is an active member of the defined benefit plan on the date that the defined

1 contribution plan becomes effective may, within 12 months after that date, elect to transfer to and become a
2 member of the plan regardless of whether the member remains active, becomes inactive, or terminates ~~covered~~
3 employment and plan membership within the 12-month period;

4 (ii) a member who was an inactive member of the defined benefit plan on the date that the defined
5 contribution plan becomes effective and who is rehired into covered employment after the plan effective date
6 may, within 12 months after the member's rehire date, elect to transfer to and become a member of the plan
7 regardless of whether the member remains active, becomes inactive, or terminates ~~covered~~ employment and
8 plan membership within the 12-month period;

9 (b) a member who is initially hired into covered employment on or after the date that the defined
10 contribution plan becomes effective may, within 12 months of the member's hire date, elect to become a member
11 of the plan regardless of whether the member remains active, becomes inactive, or terminates ~~covered~~
12 employment and plan membership within the 12-month period.

13 (2) (a) Elections made pursuant to this section must be made on a form prescribed by the board.

14 (b) A member failing to make an election prescribed by this section remains a member of the defined
15 benefit plan.

16 (c) An election under this section, including the default election pursuant to subsection (2)(b), is a
17 one-time irrevocable election. Subject to 19-3-2113, this subsection (2)(c) does not prohibit a new election after
18 a member has terminated membership in either plan and returned to covered employment.

19 (3) A member in either the defined benefit plan or the defined contribution plan who becomes inactive
20 after an election under this section and who returns to active membership remains in the plan previously elected.

21 (4) A system member may not simultaneously be a member of the defined benefit plan and the defined
22 contribution plan and must be a member of either the defined benefit plan or the defined contribution plan. A
23 period of service may not be credited in more than one retirement plan within the system.

24 (5) The provisions of this part do not prohibit the board from adopting rules to allow an employee to elect
25 the defined contribution plan from the first day of covered employment.

26 (6) A member of the defined benefit plan who is subject to a family law order pursuant to 19-2-907 or
27 an execution or income-withholding order pursuant to 19-2-909 may not transfer to the defined contribution plan
28 unless the order is modified to apply under the defined contribution plan.

29 (7) (a) A member of the defined benefit plan who is purchasing service credit through installment
30 payments, either made directly to the board or pursuant to a payroll deduction agreement, may not transfer

1 membership to the defined contribution plan unless the member first completes or terminates the contract for
2 purchase of service credit.

3 (b) A member who files an election to transfer membership may make a lump-sum payment for up to
4 the balance of the service credit remaining to be purchased prior to transferring, subject to the limitations of
5 section 415 of the Internal Revenue Code. The lump-sum payment, unless made by a rollover pursuant to
6 19-2-708, must be made with after-tax dollars.

7 (c) If a member who files an election to transfer membership fails to complete or terminate the contract
8 for purchase of service credit by the end of the member's 12-month election window, the board shall terminate
9 the service purchase contract and credit the member with the prorated amount of service credit purchased under
10 the contract."
11

12 **Section 29.** Section 19-3-2112, MCA, is amended to read:

13 **"19-3-2112. Plan choices for members employed by university system -- amount available to**
14 **transfer -- effect on rights.** (1) If a member who is employed by the Montana university system is eligible to
15 make an election under this part to transfer to the defined contribution plan, the employee may, instead of
16 electing the defined contribution plan, elect to transfer membership to the university system's optional retirement
17 program provided for under chapter 21 of this title.

18 (2) Except as otherwise provided in this part, an election to transfer membership to the optional
19 retirement program must be made in accordance with the following provisions:

20 (a) (i) A member employed by the university system who is an active member of the defined benefit plan
21 on the effective date of the defined contribution plan may, within 12 months after that date, elect to transfer to
22 and become a member of the optional retirement program regardless of whether the member remains active,
23 becomes inactive, or terminates ~~covered~~ employment and plan membership within the 12-month period.

24 (ii) A member who was an inactive member of the defined benefit plan on the effective date of the
25 defined contribution plan and who is hired or rehired into covered employment with the university system after
26 that date may, within 12 months after the member's hire or rehire date, elect to transfer to and become a
27 member of the optional retirement program regardless of whether the member remains active, becomes inactive,
28 or terminates ~~covered~~ employment and plan membership within the 12-month period.

29 (iii) A member who is initially hired into covered employment with the university system on or after the
30 effective date of the defined contribution plan may, within 12 months of the member's hire date, elect to become

1 a member of the optional retirement program regardless of whether the member remains active, becomes
2 inactive, or terminates covered employment and plan membership within the 12-month period.

3 (b) Elections made pursuant to this section must be made on a form prescribed by the board.

4 (c) A member failing to make an election prescribed by this section remains a member of the defined
5 benefit plan.

6 (d) An election under this section, including the default election pursuant to subsection (2)(c), is a
7 one-time irrevocable election. Subject to 19-3-2113, this subsection (2)(d) does not prohibit a new election after
8 an employee has terminated membership in the optional retirement program and returned to employment in a
9 position covered under the system.

10 (e) A member in either the defined benefit plan or the optional retirement program who becomes
11 inactive after an election under this section and who returns to active membership remains in the plan previously
12 elected.

13 (f) Except as provided in subsection (2)(g), a university employee in a position covered under the
14 system may not simultaneously be a member of more than one retirement plan under chapters 3 and 21 of this
15 title, but must be a member of the defined benefit plan, the defined contribution plan, or the optional retirement
16 program as provided by applicable provisions of this title. The same period of service may not be credited in
17 more than one retirement system or plan.

18 (g) A university system employee who is or has been a member of the optional retirement program and
19 returns to or accepts covered employment other than with the university system may make an election pursuant
20 to 19-3-2111. That election is valid only for covered employment other than with the university system.

21 (h) The provisions of this part do not prohibit the board from adopting rules to allow an eligible employee
22 to elect the optional retirement program from the first day of covered employment.

23 (i) A member of the defined benefit plan who is subject to a family law order pursuant to 19-2-907 or
24 an execution or income-withholding order pursuant to 19-2-909 may not transfer to the optional retirement
25 program unless the order is modified to apply under the optional retirement program.

26 (j) (i) A member of the defined benefit plan who is purchasing service credit through installment
27 payments, either made directly to the board or pursuant to a payroll deduction agreement, may not transfer
28 membership to the optional retirement program unless the member completes or terminates the contract for
29 purchase of service credit.

30 (ii) A member who files an election to transfer membership may make a lump-sum payment for up to

1 the balance of the service credit remaining to be purchased prior to transferring, subject to the limitations of
2 section 415 of the Internal Revenue Code. The lump-sum payment, unless made by a rollover pursuant to
3 19-2-708, must be made with after-tax dollars.

4 (iii) If a member who files an election to transfer fails to complete or terminate the contract for purchase
5 of service credit by the end of the member's 12-month election window, the board shall terminate the service
6 purchase contract and credit the member with the prorated amount of service credit purchased under the
7 contract.

8 (3) For an employee electing to transfer membership to the optional retirement program, the board shall
9 transfer to the optional retirement program the amount that the employee would have been able to transfer to
10 the defined contribution plan under 19-3-2114.

11 (4) An election to become a member of the optional retirement program pursuant to this section is a
12 waiver of all rights and benefits under the public employees' retirement system."

13

14 **Section 30.** Section 19-3-2114, MCA, is amended to read:

15 **"19-3-2114. Amount available to transfer.** (1) (a) For an employee who was ~~a system~~ an active
16 member of the system on the day before the effective date of the defined contribution plan and who elects to
17 transfer to the plan;

18 (i) for amounts contributed prior to July 1, 2002, the board shall transfer from the defined benefit plan
19 to the member's retirement account the employee's contributions and the percentage of the employer's
20 contributions specified in subsection (1)(b), plus 8% compounded annual interest on the total of the transferred
21 employee and employer contributions from the month that the contributions were received; and

22 (ii) for amounts contributed on or after July 1, 2002, the board shall transfer from the defined benefit plan
23 to the member's retirement account an amount equal to the amount that would have been allocated to the
24 member's account pursuant to 19-3-2117, plus 8% compounded annual interest from the month that the
25 contributions were received.

26 (b) Based on the contribution amount historically available to pay unfunded liabilities in the defined
27 benefit plan and the transferring member's years of membership service, the percentage of the employer
28 contributions that may be transferred are as follows:

29 Years of membership service	Percentage of employer
30	contributions available to transfer

1	Less than 5 years	65.53%
2	5 to 9 years	58.59%
3	10 to 14 years	55.26%
4	15 to 19 years	55.42%
5	20 or more years	57.53%

6 (2) For an employee hired on or after the effective date of the defined contribution plan who elects to
 7 become a member of the plan, the board shall transfer from the defined benefit plan to the member's retirement
 8 account an amount equal to the amount that would have been ~~credited~~ allocated to the member's account
 9 pursuant to 19-3-2117 had the employee become a plan member on the employee's hire date, plus 8%
 10 compounded annual interest from the month that the contributions were received.

11 (3) For an employee who was an inactive member of the defined benefit plan on the date that the
 12 defined contribution plan became effective and who after that date became an active member and elected to
 13 transfer to the defined contribution plan:

14 (a) for amounts contributed prior to July 1, 2002, the board shall transfer from the defined benefit plan
 15 to the member's retirement account the employee's contributions and the percentage of the employer's
 16 contributions specified in subsection (1)(b), plus 8% compounded annual interest on the total of the transferred
 17 employee and employer contributions from the month that the contributions were received; and

18 (b) for amounts contributed on or after July 1, 2002, the board shall transfer from the defined benefit
 19 plan to the member's retirement account an amount equal to the amount that would have been allocated to the
 20 member's account pursuant to 19-3-2117, plus 8% compounded annual interest from the month that the
 21 contributions were received."

22

23 **Section 31.** Section 19-3-2116, MCA, is amended to read:

24 **"19-3-2116. Vesting -- mandatory termination of membership -- forfeitures.** (1) A member's
 25 contribution account includes the member's contributions and the income on those contributions and is vested
 26 from the date that the employee becomes a member of the plan.

27 (2) A member's employer contribution account includes the employer's contributions and the income
 28 on those contributions and is vested only when the member has a total of 5 years of membership service under
 29 the system.

30 (3) A member's account for other contributions includes the member's rollovers of contributions made

1 pursuant to 19-3-2115 and income on those contributions and is vested from the date that the contribution is
2 credited to the account.

3 (4) A member who terminates ~~covered employment~~ service after becoming a vested member may
4 terminate plan membership as provided in 19-3-2123.

5 (5) A member who terminates ~~covered employment~~ service before becoming a vested member shall
6 terminate plan membership as provided in 19-3-2123 and subject to 19-3-2126.

7 (6) If the member's employer contribution account is not vested upon termination of ~~covered~~
8 ~~employment plan membership, as provided in 19-3-2123~~, the employer contributions and income are forfeited
9 and must be allocated as provided in 19-3-2117."
10

11 **Section 32.** Section 19-3-2117, MCA, is amended to read:

12 **"19-3-2117. Allocation of contributions and forfeitures.** (1) ~~Each plan member's retirement account~~
13 ~~must be credited with the~~ The member contributions made under 19-3-315 and additional contributions paid by
14 the member for the purchase of service must be allocated to the plan member's retirement account.

15 (2) Subject to adjustment by the board as provided in 19-3-2121, ~~beginning on the plan's effective date,~~
16 of the employer contributions under 19-3-316 received on or after July 1, 2002, an amount equal to:

17 (a) 4.19% of compensation must be allocated to the member's retirement account;

18 (b) 2.37% of compensation must be allocated to the defined benefit plan as the plan choice rate; ~~and~~

19 (c) 0.04% of compensation must be allocated to the education fund as provided in 19-3-112(1)(b); ~~and~~

20 ~~(3)(d) Subject to adjustment by the board pursuant to 19-3-2121(6) and beginning on the plan's effective~~
21 ~~date, of the employer contributions under 19-3-316;~~ 0.3% of compensation must be allocated to the long-term
22 disability plan trust fund established pursuant to 19-3-2141.

23 ~~(4)(3)~~ Forfeitures of employer contributions and investment income on the employer contributions may
24 not be used to increase a member's retirement account. The board shall allocate the forfeitures under 19-3-2116
25 to meet the plan's administrative expenses, including startup expenses."
26

27 **Section 33.** Section 19-3-2121, MCA, is amended to read:

28 **"19-3-2121. Determination and adjustment of plan choice rate and contribution allocations.** (1)
29 The board shall periodically review the sufficiency of the plan choice rate and shall adjust the allocation of
30 contributions under 19-3-2117 as specified in this section. The board shall collect and maintain the data

1 necessary to comply with this section.

2 (2) The plan choice rate set in 19-3-2117(2)(b) must be adjusted as provided in this section, taking into
3 account:

4 (a) as determined under subsection (3), the change in the normal cost contribution rate in the defined
5 benefit plan that is the result of member selection of the defined contribution plan; and

6 (b) as determined under subsection (4), the sufficiency of the plan choice rate to actuarially fund the
7 defined contribution plan member's appropriate share of the defined benefit plan's unfunded liabilities.

8 (3) The change in the normal cost contribution rate must be an amount equal to the difference between
9 the normal cost contribution rate in the defined benefit plan that would have resulted if all system members
10 remained in the defined benefit plan and the normal cost contribution rate in the defined benefit plan for the
11 actual members of the defined benefit plan, multiplied by the ~~covered payroll~~ compensation paid to all of the
12 members in the defined benefit plan, divided by the ~~covered payroll~~ compensation paid to all of the members
13 in the defined contribution plan. The measurements under this subsection must be based on the defined benefit
14 plan in effect on the effective date of the defined contribution plan until the board determines that the defined
15 benefit plan has been amended in a manner that significantly affects plan choices available to system members.
16 After a board determination that the defined benefit plan has been significantly changed, the measurements in
17 this subsection with respect to members entering the system after the significant change must be made on the
18 basis of the defined benefit plan, as amended.

19 (4) The sufficiency of the plan choice rate to actuarially fund the appropriate share of the defined benefit
20 plan's unfunded liabilities must be determined as follows:

21 (a) The board shall determine the number of years required to actuarially fund the defined benefit plan's
22 unfunded liabilities as of the June 30, 1998, actuarial valuation, which must be the initial schedule for the defined
23 contribution plan to actuarially fund the plan's share of the unfunded liabilities. The board shall reduce the
24 schedule by 1 year each biennium.

25 (b) During each subsequent actuarial valuation of the defined benefit plan conducted pursuant to
26 19-2-405, the board shall determine whether the plan choice rate minus the amount provided in subsection (2)(a)
27 of this section is sufficient to pay the unfunded liability obligations within the schedule determined under
28 subsection (4)(a) of this section. If the amount is insufficient to fund the liability over a period of 10 years longer
29 than the scheduled period or is more than sufficient to fund the liability over a period of 10 years earlier than the
30 scheduled period, the board shall determine to the nearest 0.1% the amount of the increase or decrease in the

1 plan choice rate that is required to actuarially fund the liabilities according to the established schedule.

2 (5) If the board determines that the plan choice rate should be increased or decreased, the plan choice
3 rate under 19-3-2117(2)(b) must be increased or decreased accordingly. If the plan choice rate is increased, the
4 allocation of employer contributions to member accounts under 19-3-2117(2)(a) must be decreased by that
5 amount. If the plan choice rate is decreased, the allocation of employer contributions to member accounts under
6 19-3-2117(2)(a) must be increased by that amount.

7 (6) If the board determines that the contribution rate to the disability plan under 19-3-2117(~~3~~)(2)(d)
8 should be increased, the employer contribution to each member's account under 19-3-2117(2)(a) must be
9 decreased by that amount. If the board determines that the contribution rate to the disability plan under
10 19-3-2117(~~3~~)(2)(d) should be decreased, the employer contribution to each member's account under
11 19-3-2117(2)(a) must be increased by that amount.

12 (7) By November 1 of the year of a determination pursuant to this section that the allocation of employer
13 contributions under 19-3-2117(2) must be changed, the board shall notify system members, participating
14 employers, employee and employer organizations, the governor, and the legislature of its determination and of
15 the changes required.

16 (8) Effective January 1 of the year after the regular legislative session that immediately follows a
17 determination under this section, the plan choice rate and the allocation of contributions under 19-3-2117(2)
18 must be adjusted according to the board's determination."

19

20 **Section 34.** Section 19-3-2126, MCA, is amended to read:

21 **"19-3-2126. Refunds -- minimum account balance -- adjustment by rule.** (1) Before termination of
22 service, a member may not receive a refund of any portion of the member's vested account balance.

23 (2) Except as provided in 19-3-2142, a member who terminates ~~from~~ service and whose vested account
24 balance is less than \$200 must be paid the vested account balance in a lump sum. If the member's employer
25 contribution account is not vested, the employer contributions and income are forfeited and must be allocated
26 as provided in 19-3-2117. The payment must be made as soon as administratively feasible ~~after the member's~~
27 ~~termination~~ without a written application from the member.

28 (3) Except as provided in 19-3-2142, unless a written application is made pursuant to subsection (4)(a),
29 a member who terminates ~~from~~ service and whose vested account balance is between \$200 and \$5,000 must
30 be paid the vested account balance in a lump sum. The payment must be made as soon as administratively

1 feasible ~~after the member's termination~~. If the member's employer contribution account is not vested, the
2 employer contributions and income are forfeited and must be allocated as provided in 19-3-2117.

3 (4) (a) Except as provided in 19-3-2142, upon the written application of a ~~terminating~~ member
4 terminating service whose vested account balance is \$200 or more, the board shall make a direct rollover
5 distribution pursuant to section 401(a)(31) of the Internal Revenue Code of the eligible portion of that balance.
6 To receive the direct rollover distribution, the member is responsible for correctly designating, on forms provided
7 by the board, an eligible retirement plan that allows the rollover under applicable federal law.

8 (b) The direct rollover distribution must be paid directly to the eligible retirement plan.

9 (5) A member who terminates service with an account balance greater than \$5,000, whether vested
10 or not, may remain in the plan.

11 (6) The board may by rule adjust the minimum account balance provided in this section as necessary
12 to maintain reasonable administrative costs and to account for inflation."
13

13

14 **Section 35.** Section 19-5-103, MCA, is amended to read:

15 **"19-5-103. Call of retired judges and justices and inactive vested members for duty.** (1) (a) If
16 physically and mentally able, a retired judge or justice who has voluntarily retired after at least 8 years of service
17 is subject to call for duty by the chief justice to aid and assist any district court or any water court under directions
18 that the chief justice may give or to serve as water judge.

19 (b) When called, a retired judge's or justice's duties include the examination of the facts, cases, and
20 authorities cited and the preparation of opinions for and on behalf of the court to which the judge or justice is
21 called to serve. The opinions, when and if and to the extent approved by the court, may be ordered by the court
22 to constitute the opinion of the court. The court and the retired judge or justice may, subject to any rule that the
23 supreme court may adopt, perform any duties preliminary to the final disposition of cases that are not
24 inconsistent with the constitution of the state.

25 (2) (a) A retired judge or justice, when called to duty, must be reimbursed for actual expenses, if any,
26 in responding to the call.

27 (b) In addition, a retired judge or justice is entitled to receive compensation in an amount equal to:

28 (i) the daily salary then currently applicable to the judicial position in which the duty is rendered for each
29 day of duty rendered, up to a total of 180 days in a calendar year; and

30 (ii) for each day of duty after 180 days in a calendar year, one-twentieth of the monthly salary then

1 currently applicable to the judicial position in which the duty is rendered minus an amount equal to one-twentieth
2 of the monthly retirement benefit that the retired judge or justice is receiving, if any.

3 (3) A judge or justice who is an inactive vested member, who has voluntarily ~~terminated~~ discontinued
4 service as an active judge after 8 years of service, and who, by reason of age, is not eligible to receive a
5 retirement benefit under this chapter may be called for duty as provided in subsection (1). A judge or justice
6 called to duty under this subsection must be reimbursed as provided in subsection (2)(a) and compensated as
7 provided in subsection (2)(b)(i) regardless of the number of days served in a calendar year."

8

9 **Section 36.** Section 19-5-402, MCA, is amended to read:

10 "**19-5-402. Member's contribution.** (1) Each ~~member shall contribute into the fund a sum equal to~~
11 member's contribution is 7% of the member's monthly compensation beginning on the first day of the member's
12 term.

13 (2) Each employer, pursuant to section 414(h)(2) of the Internal Revenue Code, as amended and
14 applicable on July 1, 1991, shall pick up and pay the contributions that would be payable by the member under
15 subsection (1) for service rendered after June 30, 1991.

16 (3) The member's contribution picked up by the employer is the member's contribution for all purposes
17 of the retirement system, except for the determination of a tax upon a distribution from the retirement system.
18 The contributions must become part of the member's accumulated contributions but must be accounted for
19 separately from the previously accumulated contributions.

20 (4) The member's contributions picked up by the employer are payable from the same source used to
21 pay compensation to the member and must be included in the member's monthly compensation. The employer
22 shall deduct from the member's compensation an amount equal to the amount of the member's contributions
23 picked up by the employer and remit the total of the contributions to the board."

24

25 **Section 37.** Section 19-5-404, MCA, is amended to read:

26 "**19-5-404. Contributions by state State employer contribution.** (1) Except as provided in subsection
27 (2), the state of Montana shall contribute monthly to the pension trust fund a sum equal to pay as employer
28 contributions 25.81% of the compensation of each member paid to all of the employer's employees, except those
29 properly excluded from membership.

30 (2) The state of ~~Montana~~ shall contribute monthly from the renewable resource grant and loan program

1 account in the state special revenue fund to the judges' pension trust fund an amount equal to 25.81% of the
 2 compensation paid to the chief water court judge. The judiciary shall include in its budget and shall request for
 3 legislative appropriation an amount necessary to defray the state's portion of the costs of this section."
 4

5 **Section 38.** Section 19-5-410, MCA, is amended to read:

6 **"19-5-410. Application to purchase military service credit.** (1) ~~(a)~~ Except as ~~otherwise~~ provided in
 7 ~~this section subsection (1)(b)~~ and subject to 19-5-411, a member with at least 5 years of membership service
 8 may, at any time prior to retirement, file a written application with the board to purchase service credit and
 9 membership service for up to 5 years of the member's active service in the armed forces of the United States
 10 for the purpose of calculating retirement benefits.

11 ~~(2) To purchase this military service, the member shall pay the actuarial cost of the service, based on~~
 12 ~~the system's most recent actuarial valuation.~~

13 ~~(3)(b)~~ A member is not eligible to purchase active military service credit and membership service under
 14 ~~this section subsection (1)(a)~~ if the member:

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

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

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

19 ~~(2) (a)~~ Except as provided in subsection ~~(2)(b)~~ and subject to 19-5-411, a member with at least 5 years
 20 of membership service may, at any time prior to retirement, file a written application with the board to purchase
 21 service credit and membership service for up to 5 years of the member's reserve military service in the armed
 22 forces of the United States.

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

25 ~~(3)~~ To purchase service credit and membership service under this section, the member shall pay the
 26 actuarial cost of the member's active or reserve military service credit based on the system's most recent
 27 actuarial valuation."

28

29 ~~Section 39.~~ Section 19-5-502, MCA, is amended to read:

30 ~~"19-5-502. Service retirement benefit.~~ After termination from service and upon application for service

1 retirement, the service retirement benefit must be as follows:

2 ——— (1) for members not covered under ~~19-5-901 or 19-5-902~~, 3 1/3% a year of the member's current salary
3 for the first 15 years of service credit and 1.785% a year for each year of service credit after 15 years; or

4 ——— (2) for members covered under ~~19-5-901 or 19-5-902~~, the benefit provided under subsection (1) except
5 that the benefit must be calculated using highest average compensation."

6

7 ——— ~~Section 40.~~ Section 19-5-601, MCA, is amended to read:

8 ——— ~~"19-5-601. Disability retirement benefit.~~ In the case of the disability of a member, a disability
9 retirement benefit must be granted the member in an amount actuarially equivalent to the service retirement
10 benefit standing to the member's credit at the time of the member's disability retirement. If the disability is a direct
11 result of any service or duty for the Montana judiciary, the member's disability retirement benefit must be:

12 ——— (1) the greater of one-half of the member's current salary or the contingent annuitant's benefit, if
13 applicable, for a person not covered under ~~19-5-901 or 19-5-902~~; or

14 ——— (2) the greater of one-half of the member's highest average compensation or the contingent annuitant's
15 benefit, if applicable, for a person covered under ~~19-5-901 or 19-5-902~~."

16

17 **Section 39.** Section 19-5-701, MCA, is amended to read:

18 **"19-5-701. Optional forms of benefits -- designation of contingent annuitant.** (1) The retirement
19 benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted,
20 in lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent
21 of the original benefit. ~~The An~~ optional retirement benefit is initially payable during the member's or designated
22 beneficiary's lifetime, with a subsequent benefit, depending on the option selected, to a contingent annuitant as
23 follows:

24 (a) option 2--a continuation of the ~~reduced amount optional retirement benefit~~ after the death of the
25 initial payee and payable during the lifetime of the named contingent annuitant;

26 (b) option 3--a continuation of one-half of the ~~reduced amount optional retirement benefit~~ after the death
27 of the initial payee and payable during the lifetime of the named contingent annuitant;

28 (c) option 4--~~upon~~ a continuation of the optional retirement benefit to one or more contingent annuitants
29 in the event of the initial payee's death, ~~other actuarially equivalent amounts payable to a contingent annuitant~~
30 as may be approved by the board before the end of a period certain, determined as follows:

1 (i) the period certain commences at the time that the initial payee first begins receiving the retirement
2 benefit and is available as either:

3 (A) a 10-year period certain if the member retired at 75 years of age or younger; or

4 (B) a 20-year period certain if the member retired at 65 years of age or younger;

5 (ii) if there is more than one surviving contingent annuitant, each contingent annuitant must receive a
6 proportion of the initial payee's benefit on a share and share alike basis.

7 (2) The member or designated beneficiary who elects an optional retirement benefit shall file a written
8 application with the board prior to the first payment of the benefit. A contingent annuitant must be identified on
9 the application.

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

12 (4) If the member dies after retirement and within 30 days from the date that the member's written
13 application electing or changing an election of an optional retirement benefit is received by the board, the
14 election is void.

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

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

21 (ii) the member's marriage to the contingent annuitant is dissolved and the beneficiary has no right to
22 receive the optional retirement benefit as part of a family law order, as defined in 19-2-907, in which case the
23 benefit must revert effective on the first day of the month following receipt of the written application and
24 verification that the family law order does not grant the optional benefit to the contingent annuitant.

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

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

30 (7) (a) Upon filing a written application with the board, a retired member who is receiving an optional

1 retirement benefit may designate a different contingent annuitant, select a different option, or convert the
2 member's optional retirement benefit to a regular retirement benefit if:

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

4 (ii) the member has been divorced from the original contingent annuitant and the original contingent
5 annuitant has no right to receive the optional retirement benefit as part of a family law order.

6 (b) Upon receipt of the written application, the board shall actuarially adjust the member's monthly
7 retirement benefit to reflect the change."
8

9 ~~Section 42. Section 19-5-802, MCA, is amended to read:~~

10 ~~"19-5-802. Payments in case of death from other causes. (1) If a retired member not covered under~~
11 ~~19-5-901 or 19-5-902 dies without designating a contingent annuitant under 19-5-701(2), the member's~~
12 ~~designated beneficiary must be paid the amount, if any, of the member's accumulated contributions calculated~~
13 ~~as of the day of the member's retirement minus the total of any retirement benefits already paid from the~~
14 ~~member's account. At the designated beneficiary's request, the lump sum may be paid as an actuarially~~
15 ~~equivalent annuity that will not be subject to increases for any purpose.~~

16 ~~(2) If a retired member covered under 19-5-901 or 19-5-902 dies without designating a contingent~~
17 ~~annuitant under 19-5-701(2), the member's designated beneficiary must be paid the amount, if any, of the~~
18 ~~member's accumulated contributions calculated as of the day of the member's retirement minus the total of any~~
19 ~~retirement benefits already paid from the member's account.~~

20 ~~(3) If a member dies before reaching normal retirement age, the member's designated beneficiary is~~
21 ~~entitled to a monthly survivorship benefit that is the actuarial equivalent of the involuntary retirement benefit~~
22 ~~provided in 19-5-503."~~
23

24 **SECTION 40. SECTION 19-5-902, MCA, IS AMENDED TO READ:**

25 **"19-5-902. Election -- guaranteed annual benefit adjustment.** (1) Subject to subsection (2), on
26 January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient
27 who is eligible under subsection (3) must be increased by 3%.

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

1 in the benefit paid since the preceding January.

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

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

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

9 (b) the member either:

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

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

12 ~~(A) must be filed with the board prior to December 1, 2001 2005; and~~

13 ~~_____ (B) requires an active member to pay an increased or revised contribution rate from January 1, 2002,~~
14 ~~forward.~~

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

16 (5) The decision of a member who previously elected to participate under 19-5-901 or this section
17 remains valid. The decision of a member who previously elected not to participate under 19-5-901 or this section
18 may be reversed under this section."

19

20 **Section 41.** Section 19-6-301, MCA, is amended to read:

21 **"19-6-301. Membership -- inactive vested members -- inactive nonvested members.** (1) All
22 members of the Montana highway patrol, including the supervisor and assistant supervisors, must be members
23 of the retirement system.

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

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

30 (3) ~~(a) A An inactive member with less than 5 years of membership service who terminates service and~~

1 ~~leaves the member's accumulated contributions in the pension trust fund~~ is an inactive nonvested member and
 2 is not eligible for any benefits from the retirement system.

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

5
 6 **Section 42.** Section 19-6-402, MCA, is amended to read:

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

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

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

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

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

23
 24 **Section 43.** Section 19-6-404, MCA, is amended to read:

25 **"19-6-404. State's State employer contribution.** The state of Montana shall ~~annually contribute to the~~
 26 ~~pension trust fund an amount equal to pay as employer contributions~~ 36.33% of the total compensation paid to
 27 ~~the members~~ all of the employer's employees, except those properly excluded from membership from the
 28 following sources:

29 (1) an amount equal to 26.15% of the total compensation of the members is payable from the same
 30 source that is used to pay compensation to the members; and

1 (2) an amount equal to 10.18% of the total compensation of the members is payable from a portion of
2 the fees from driver's licenses and duplicate driver's licenses as provided in 61-5-121."

3

4 **Section 44.** Section 19-6-505, MCA, is amended to read:

5 **"19-6-505. Payment of retirement benefits.** (1) The service retirement benefit must be paid to the
6 retired member for the remainder of the member's life.

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

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

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

16 (c) Payments to a dependent child must be made ~~to the child's appointed guardian for the child's use~~
17 pursuant to 19-2-803.

18 (4) If a retired member dies without a surviving spouse or dependent child, the member's designated
19 beneficiary must be paid the amount, if any, of the retired member's accumulated contributions minus the total
20 of any retirement benefits already paid from the member's account."

21

22 **Section 45.** Section 19-6-709, MCA, is amended to read:

23 **"19-6-709. (Temporary) Supplemental benefits for certain retirees.** (1) In addition to any retirement
24 benefit payable under this chapter, a retired member or a survivor determined by the board to be eligible under
25 subsection (2) must receive an annual lump-sum benefit payment beginning in September 1991 and each
26 succeeding year as long as the member remains eligible.

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

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

- 1 (b) a survivor of a member who would have been eligible under subsection (2)(a); or
 2 (c) a recipient of a disability benefit under 19-6-601 or a survivorship benefit under 19-6-901.
- 3 (3) A retired member otherwise qualified under this section who is employed in a position covered by
 4 a retirement system under Title 19 is ineligible to receive any lump-sum benefit payments provided for in this
 5 section until ~~the member's service in the covered position is terminated. Upon termination of the member's~~
 6 ~~service, the retired member becomes eligible in the next fiscal year succeeding following~~ the member's
 7 termination from service in the covered position.
- 8 (4) The amount of fees transferred to the pension trust fund pursuant to 15-1-122(3)(e), 61-3-527(4),
 9 and 61-3-562(1)(b) must be distributed proportionally as a lump-sum benefit payment to each eligible recipient
 10 based on service credit at the time of retirement, subject to the following:
- 11 (a) a recipient under subsection (2)(c) is considered to have 20 years of service credit for the purposes
 12 of the distributions;
- 13 (b) any recipient of a retirement benefit exceeding the maximum monthly benefit under 19-6-707(2)(a)
 14 must have the recipient's service credit reduced 25% for the purposes of the distributions;
- 15 (c) the maximum annual increase in the amount of supplemental benefits paid to each individual under
 16 this section is the percentage increase for the previous calendar year in the annual average consumer price
 17 index for urban wage earners and workers, compiled by the bureau of labor statistics of the United States
 18 department of labor or its successor agency. (Terminates upon death of last eligible recipient--sec. 1, Ch. 567,
 19 L. 1991.)"

- 20
- 21 **Section 46.** Section 19-7-301, MCA, is amended to read:
- 22 **"19-7-301. Membership -- inactive vested members -- inactive nonvested members.** (1) (a) Except
 23 as provided in subsection (1)(b), each sheriff shall become a member of the sheriffs' retirement system.
- 24 (b) A sheriff who was a member of the public employees' retirement system on July 1, 1974, may
 25 remain a public employees' retirement system member or elect to become a member of the sheriffs' retirement
 26 system by filing a written election with the board at any time before retirement.
- 27 (2) (a) Except as provided in subsection (2)(b), an investigator shall become a member of the sheriffs'
 28 retirement system.
- 29 (b) An investigator who was a member of the public employees' retirement system on July 1, 1993, may
 30 remain in the public employees' retirement system or elect to become a member of the sheriffs' retirement

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

6 (4) A sheriff or investigator who elects to become a member of the sheriffs' retirement system must be
7 an active member as long as actively employed in an eligible capacity, except as provided in 19-7-1101(2).

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

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

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

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

19

20 **Section 47.** Section 19-7-403, MCA, is amended to read:

21 **"19-7-403. Member's contributions deducted.** (1) ~~Each member shall contribute into the pension trust~~
22 ~~fund~~ member's contribution is 9.245% of the member's monthly compensation, which must be deposited to the
23 member's credit in the pension trust fund.

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

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

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

7 **Section 48.** Section 19-7-404, MCA, is amended to read:

8 **"19-7-404. Employer contributions.** (1) The employer shall pay ~~monthly~~ 9.535% of ~~each member's~~
9 ~~gross~~ the compensation into the pension trust fund created by this chapter paid to all of the employer's
10 employees, except those properly excluded from membership.

11 (2) If the required contribution to the retirement system exceeds the funds available to a county from
12 general revenue sources, a county may, subject to 15-10-420, budget, levy, and collect annually a tax on the
13 taxable value of all taxable property within the county that is sufficient to raise the amount of revenue needed
14 to meet the county's obligation."
15

16 **Section 49.** Section 19-7-801, MCA, is amended to read:

17 **"19-7-801. Membership in municipal police officers' retirement system prior to or following**
18 **city-county consolidation -- payment of benefits by two systems.** (1) A law enforcement officer who has not
19 changed employment but who has, because of a city-county consolidation, been transferred either from a city
20 police force to a county sheriff's department or from a county sheriff's department to a city police force as a law
21 enforcement officer is eligible for a service retirement benefit if the officer's combined service credit in the
22 sheriffs' retirement system and the municipal police officers' retirement system satisfies the minimum
23 membership service requirement of the system to which the officer last made contributions. A member who has
24 elected to continue membership in the public employees' retirement system under 19-7-301 may continue the
25 election. However, credit for service in the public employees' retirement system that has not been transferred
26 prior to January 1, 1979, may not be transferred.

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

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

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

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

12 (a) For the municipal police officers' retirement system portion of the benefit, the surviving spouse must
13 receive a benefit equal to the municipal police officers' retirement system portion of the service retirement benefit
14 as calculated at the time of the member's retirement. If the retired member leaves no surviving spouse or upon
15 the death of the surviving spouse, the retired member's surviving dependent child, or children collectively if there
16 are more than one, must receive the same monthly benefits that a surviving spouse would receive for as long
17 as the child or one of the children remains dependent, as defined in 19-9-104. The benefits must be ~~made to~~
18 ~~the child's appointed guardian for the child's use~~ paid pursuant to 19-2-803. If there is more than one dependent
19 child, upon ~~each a~~ child no longer qualifying as dependent under 19-9-104, ~~the that child's~~ that child's pro rata benefits ~~to~~
20 ~~that child~~ must ~~cease and~~ be paid to the remaining dependent children ~~until all the children are no longer~~
21 ~~dependent~~.

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

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

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

29

30 **Section 50.** Section 19-7-1001, MCA, is amended to read:

1 **"19-7-1001. 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 converted,
3 in lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent
4 of the original benefit. ~~The~~ An optional retirement benefit is initially payable during the member's or designated
5 beneficiary's lifetime with a subsequent benefit, depending on the option selected, to a contingent annuitant, as
6 follows:

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

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

11 (c) option 4--~~upon a continuation of the optional retirement benefit to one or more contingent annuitants~~
12 in the event of the initial payee's death, other actuarially equivalent amounts payable to a contingent annuitant
13 as may be approved by the board before the end of a period certain, determined as follows:

14 (i) the period certain commences at the time that the initial payee first begins receiving the retirement
15 benefit and is available as either:

16 (A) a 10-year period certain if the member retired at 75 years of age or younger; or

17 (B) a 20-year period certain if the member retired at 65 years of age or younger;

18 (ii) if there is more than one surviving contingent annuitant, each contingent annuitant must receive a
19 proportion of the initial payee's benefit on a share and share alike basis.

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

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

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

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

1 retirement if:

2 (i) the contingent annuitant has died, in which case the optional benefit must revert effective on the first
3 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 has no right to
5 receive the optional retirement benefit as part of a family law order, as defined in 19-2-907, in which case the
6 benefit must revert effective on the first day of the month following receipt of the written application and
7 verification that the family law order does not grant the optional benefit to the contingent annuitant.

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

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

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

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

17 (ii) the member has been divorced from the original contingent annuitant and the original contingent
18 annuitant has no right to receive the optional retirement benefit as part of the a family law order.

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

21

22 **Section 51.** Section 19-8-301, MCA, is amended to read:

23 **"19-8-301. Membership -- inactive vested members -- inactive nonvested members.** (1) Except
24 as provided in 19-8-302, the following state peace officers must be covered under the game wardens' and peace
25 officers' retirement system and, beginning on the first day of employment, ~~shall~~ must become and shall remain
26 active members for as long as they are employed as peace officers:

27 (a) game wardens who are assigned to law enforcement in the department of fish, wildlife, and parks;

28 (b) motor carrier officers employed by the department of transportation;

29 (c) campus security officers employed by the university system;

30 (d) wardens and deputy wardens employed by the department of corrections;

- 1 (e) corrections officers employed by the department of corrections;
 2 (f) probation and parole officers employed by the department of corrections;
 3 (g) stock inspectors and detectives employed by the department of livestock;
 4 (h) motor vehicle inspectors employed by the department of justice; and
 5 (i) drill instructors employed by the department of corrections.

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

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

12 (3) ~~(a) A An inactive~~ member with less than 5 years of membership service ~~who terminates service and~~
 13 ~~leaves 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.

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

17

18 **Section 52.** Section 19-8-502, MCA, is amended to read:

19 **"19-8-502. Member's contribution.** (1) ~~Each member is required to contribute into the pension trust~~
 20 ~~fund~~ member's contribution is 10.56% of the member's monthly compensation, ~~which must be deposited to the~~
 21 ~~member's credit in the pension trust fund.~~

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

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

29 (4) The member's contributions picked up by the employer must be payable from the same source as
 30 is used to pay compensation to the member and must be included in the member's wages, as defined in

1 19-1-102, and the member's compensation as used to define the member's highest average compensation in
 2 19-8-101. The employer shall deduct from the member's compensation an amount equal to the amount of the
 3 member's contributions picked up by the employer and remit the total of the contributions to the board."

4

5 **Section 53.** Section 19-8-504, MCA, is amended to read:

6 **"19-8-504. ~~State employer's~~ Employer's contribution.** ~~Each month, state employers~~ The employer
 7 shall pay to the pension trust fund a sum equal to as employer contributions 9% of the total compensation paid
 8 to ~~their covered~~ all of the employer's employees, except those properly excluded from membership. The
 9 department of fish, wildlife, and parks shall include in its budget and shall request for legislative appropriation
 10 an amount necessary to defray the state's portion of the costs of this section."

11

12 **Section 54.** Section 19-8-801, MCA, is amended to read:

13 **"19-8-801. Optional forms of benefits -- designation of contingent annuitant.** (1) The retirement
 14 benefit of a member or the survivorship benefit of a designated beneficiary who so elects must, in lieu of all other
 15 benefits under this chapter, be converted into an optional retirement benefit that is the actuarial equivalent of
 16 the original benefit. ~~The~~ An optional retirement benefit is initially payable during the member's or designated
 17 beneficiary's lifetime with a subsequent benefit, depending on the option selected, to a contingent annuitant as
 18 follows:

19 (a) option 2--a continuation of the ~~reduced amount~~ optional retirement benefit after the death of the
 20 initial payee and payable during the lifetime of the named contingent annuitant;

21 (b) option 3--a continuation of one-half of the ~~reduced amount~~ optional retirement benefit after the death
 22 of the initial payee and payable during the lifetime of the named contingent annuitant;

23 (c) option 4--~~upon~~ a continuation of the optional retirement benefit to one or more contingent annuitants
 24 in the event of the initial payee's death, other actuarially equivalent amounts payable to a contingent annuitant
 25 as may be approved by the board before the end of a period certain, determined as follows:

26 (i) the period certain commences at the time that the initial payee first begins receiving the retirement
 27 benefit and is available as either:

28 (A) a 10-year period certain if the member retired at 75 years of age or younger; or

29 (B) a 20-year period certain if the member retired at 65 years of age or younger;

30 (ii) if there is more than one surviving contingent annuitant, each contingent annuitant must receive a

1 proportion of the initial payee's benefit on a share and share alike basis.

2 (2) The member or the designated beneficiary who elects an optional retirement benefit shall file a
3 written application with the board prior to the first payment of the benefit. A contingent annuitant must be
4 identified on the application.

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

7 (4) If the member dies after retirement and within 30 days from the date that the member's written
8 application electing or changing an election of an optional retirement benefit is received by the board, the
9 election is void.

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

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

16 (ii) the member's marriage to the contingent annuitant is dissolved and the beneficiary has no right to
17 receive the optional retirement benefit as part of a family law order, as defined in 19-2-907, in which case the
18 benefit must revert effective on the first day of the month following receipt of the written application and
19 verification that the family law order does not grant the optional benefit to the contingent annuitant.

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

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

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

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

29 (ii) the member has been divorced from the original contingent annuitant and the original contingent
30 annuitant has not been granted the right to receive the optional retirement benefit as part of a family law order.

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

3

4 **Section 55.** Section 19-9-301, MCA, is amended to read:

5 **"19-9-301. Active membership -- inactive vested member -- inactive nonvested member.** (1) A
6 police officer becomes an active member of the retirement system:

7 (a) on the date the police officer's service with an employer commences;

8 (b) on July 1, 1977, if the police officer is employed by an employer on that date; or

9 (c) in the case of an employer that elects to join the retirement system, as provided in 19-9-207, on the
10 effective date of the election if the police officer is employed by the employer on that date. A person who is a
11 member of the public employees' retirement system on the date of the employer's election may remain in the
12 public employees' retirement system or may elect to become a member of the municipal police officers'
13 retirement system by filing a written election with the board no later than 30 days after the date of the employer's
14 election.

15 (2) Upon becoming eligible for membership, the police officer shall complete the forms and furnish the
16 proof required by the board.

17 (3) A member becomes an inactive member on the first day of an approved absence from service of
18 a substantial duration.

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

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

25 (5) ~~(a) An inactive member with less than 5 years of membership service who terminates service and~~
26 ~~leaves the member's accumulated contributions in the pension trust fund is an inactive nonvested member and~~
27 ~~is not eligible for any benefits from the retirement system.~~

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

30

1 **Section 56.** Section 19-9-703, MCA, is amended to read:

2 **"19-9-703. Employer contribution.** Each employer shall make its contribution through the city treasurer
3 or other appropriate official out of money available to the city for that purpose. The ~~employer's contribution, which~~
4 ~~must be paid monthly to the board, is~~ employer shall pay as employer contributions 14.41% of the compensation
5 paid to all active members of the employer's employees, except those properly excluded from membership."
6

7 **Section 57.** Section 19-9-710, MCA, is amended to read:

8 **"19-9-710. Member's contribution.** (1) Except as provided in subsection (2), the regular contribution
9 as a percentage of compensation of each active member first employed by an employer as a police officer:

- 10 (a) on or before June 30, 1975, is 5.8%;
11 (b) after June 30, 1975, is 7%;
12 (c) after June 30, 1979, but before July 1, 1997, is 8.5%; and
13 (d) on and after July 1, 1997, is 9%.

14 (2) A member covered under 19-9-1009 or 19-9-1010 shall ~~pay a contribution rate equal to~~ contribute
15 9% of the member's compensation received.

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

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

23 (5) The member's contributions picked up by the employer must be payable from the same source as
24 is used to pay compensation to the member and must be included in the member's wages as defined in
25 19-1-102 and in the member's compensation as defined in 19-9-104. The employer shall deduct from the
26 member's compensation an amount equal to the amount of the member's contributions picked up by the
27 employer and remit the total of the contributions to the board."
28

29 **Section 58.** Section 19-9-804, MCA, is amended to read:

30 **"19-9-804. Amount of service retirement benefit -- continuation of benefit after death of member.**

1 (1) A member who is eligible for service retirement must receive a retirement benefit equal to 2.5% of the
2 member's final average compensation for each year of service credit.

3 (2) (a) Upon the death of a member receiving a service retirement benefit, the member's surviving
4 spouse, if there is one, must receive a benefit equal to the amount of the member's benefit at the time of the
5 member's death.

6 (b) If the member leaves one or more dependent children, then upon the member's death, if there is
7 no surviving spouse, or upon the death of the surviving spouse, the member's surviving dependent child or
8 children collectively if there are more than one must receive the same monthly payments that a surviving spouse
9 would receive for as long as the child or one of the children remains a dependent child as defined in 19-9-104.
10 The payments must be ~~made to the child's appointed guardian for the child's use~~ paid pursuant to 19-2-803. If
11 there is more than one dependent child, upon ~~each a~~ child no longer qualifying as dependent under 19-9-104,
12 ~~the that child's~~ pro rata payments ~~to that child~~ must ~~cease and~~ be made to the remaining dependent children
13 ~~until all the children are no longer dependent.~~"

14

15 **Section 59.** Section 19-9-902, MCA, is amended to read:

16 "**19-9-902. Eligibility for disability retirement.** If a member is determined by the board to be disabled,
17 the member is entitled to a disability retirement benefit, regardless of the length of the member's service,
18 commencing on the day following the member's termination from ~~service~~ employment."

19

20 **Section 60.** Section 19-9-905, MCA, is amended to read:

21 "**19-9-905. Reinstatement upon termination of disability benefit.** (1) (a) Except as provided in
22 subsection (1)(b), a retired member whose disability retirement benefit is canceled as provided in 19-9-904 must
23 be reinstated to the position held by the member immediately before retirement or to a position in a comparable
24 pay and benefit category with duties within the member's capacity, whichever is first open. The board shall
25 advise the employer that the disability retirement benefit has been canceled and that the member is eligible for
26 reinstatement to duty. The fact that the member was retired for disability may not prejudice any right to
27 reinstatement to duty that the member may have or claim to have.

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

30 (2) The city may request a medical or psychological review as to the ability of the member to return to

1 work as a police officer. If the board's findings are upheld, the city shall pay the costs of the review.

2 (3) If the ~~retired~~ inactive member again becomes an active member by returning to service with an
3 employer within 30 days following receipt of notice under 19-9-904, the member must be considered to have
4 been continuously employed during the term of the member's disability. If the ~~retired~~ inactive member fails to
5 become an active member by returning to service with an employer within 30 days following receipt of the notice,
6 the member's termination of service is considered to have occurred as of the member's disability retirement date
7 and the retirement benefit, if any, to which the member becomes entitled on the member's service retirement
8 date must be determined accordingly."

9

10 **Section 61.** Section 19-9-1202, MCA, is amended to read:

11 **"19-9-1202. Definitions.** Unless the context requires otherwise, as used in this part, the following
12 definitions apply:

13 (1) "DROP" means the deferred retirement option plan established pursuant to this part.

14 (2) "DROP accrual" means the monthly benefit, including any postretirement adjustments, that would
15 have been payable had the participant terminated employment service and retired, multiplied by each month
16 of the DROP period that the participant completes, plus interest.

17 (3) "DROP benefit" means the lump-sum benefit calculated and distributed as provided in this part.

18 (4) "DROP period" means the period of time that a member irrevocably elects to participate in the DROP
19 pursuant to 19-9-1204.

20 (5) "Monthly DROP accrual" means the amount equal to the monthly benefit that would have been
21 payable to the participant had the participant terminated employment service and retired.

22 (6) "Participant" means a member of the retirement system who has elected to participate in the DROP
23 pursuant to this part."

24

25 **Section 62.** Section 19-9-1207, MCA, is amended to read:

26 **"19-9-1207. Employment and benefits after DROP period.** (1) Except as otherwise provided in this
27 section, if a member continues employment in a covered position after the DROP period ends, the board shall
28 consider the member newly hired as of the date the DROP period ended.

29 (2) When a member, after the end of the DROP period, continues employment in a covered position,
30 state contributions under 19-9-702, employer contributions under 19-9-703, and member contributions under

1 19-9-710 must continue to be made to the retirement system.

2 (3) A member who, after the end of the DROP period, continues employment in a covered position:

3 (a) is immediately vested for benefits accrued subsequent to the end of the DROP period; and

4 (b) is, upon terminating ~~covered employment~~ service, entitled to:

5 (i) the member's service retirement benefit earned prior to the DROP period, including any
6 postretirement benefit adjustment for which the member is eligible under this chapter;

7 (ii) a service retirement benefit based on the member's service credit and final average compensation
8 during membership subsequent to the end of the DROP period, including any postretirement benefit adjustment
9 for which the member is eligible under this chapter; and

10 (iii) the member's DROP benefit."
11

12 **Section 63.** Section 19-9-1208, MCA, is amended to read:

13 **"19-9-1208. Distribution of DROP benefit.** (1) Upon termination of ~~covered employment~~ service, a
14 participant is entitled to:

15 (a) receive a lump-sum distribution of the participant's DROP benefit;

16 (b) roll the participant's DROP benefit into another eligible retirement plan in a manner prescribed and
17 authorized by the board; or

18 (c) any other distribution or method of payment of the DROP benefit approved by the board.

19 (2) A distribution pursuant to this section is subject to the provisions of 19-2-907 and 19-2-909 and all
20 other applicable provisions of Title 19 and the Internal Revenue Code.

21 (3) The amount of a distribution, rollover, transfer, or other payment of a DROP benefit pursuant to this
22 section must include interest reflecting the retirement system's annual investment earnings from the date the
23 member's DROP period commenced."
24

25 **Section 64.** Section 19-13-301, MCA, is amended to read:

26 **"19-13-301. Active membership -- inactive vested member -- inactive nonvested member.** (1)
27 Except as provided in subsection (7), a full-paid firefighter becomes an active member of the retirement system:

28 (a) on the first day of the firefighter's service with an employer;

29 (b) on July 1, 1981, if the firefighter is employed by an employer on that date; or

30 (c) in the case of an employer who elects to join the retirement system, as provided in 19-13-211, on

1 the effective date of the election if the firefighter is employed by the employer on that date.

2 (2) Upon becoming eligible for membership, the firefighter shall complete the forms and furnish any
3 proof required by the board.

4 (3) A part-paid firefighter may elect to become a member of the retirement system by filing a
5 membership application with the board within 6 months of becoming a part-paid firefighter or March 21, 2001,
6 whichever is later.

7 (4) An active member becomes an inactive member upon the occurrence of the earliest of the following:

8 (a) the date on which the member ceases service with an employer;

9 (b) the 31st day of an approved absence from active duty with an employer; or

10 (c) the date on which the member ceases to be employed because of a reduction of the number of
11 firefighters in the fire department as provided in 7-33-4125.

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

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

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

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

23 (7) (a) A firefighter previously employed in a position covered under the public employees' retirement
24 system and who is first hired into a position covered under the firefighters' unified retirement system after
25 attaining 45 years of age may elect to remain in the public employees' retirement system.

26 (b) A firefighter making an election to remain in the public employees' retirement system shall make the
27 election in a manner prescribed by the board within 30 days of being hired into the position otherwise covered
28 under the firefighters' unified retirement system."

29

30 **Section 65.** Section 19-13-605, MCA, is amended to read:

1 **"19-13-605. Employer contribution.** Each employer shall make its contribution on behalf of members
2 through the city treasurer or other appropriate official from money available for this purpose. The employer's
3 contribution is employer shall pay as employer contributions 14.36% of the total compensation paid to members
4 all of the employer's employees, except those properly excluded from membership. All contributions are payable
5 monthly to the board, which shall, as soon as practicable after their receipt, deposit them in the pension trust
6 fund."

7

8 **Section 66.** Section 19-13-802, MCA, is amended to read:

9 **"19-13-802. Eligibility for disability retirement.** If a member is determined by the board to be disabled,
10 the member is entitled to receive a disability retirement benefit, regardless of the length of the member's service,
11 beginning the first day after the date on which the member became disabled and terminated service employment
12 because of the disability."

13

14 **Section 67.** Section 19-13-805, MCA, is amended to read:

15 **"19-13-805. Reinstatement upon termination of benefit.** (1) (a) Except as provided in subsection
16 (1)(c), a member whose disability retirement benefit is canceled as provided in 19-13-804 must be reinstated
17 to the position held by the member immediately before the member's retirement or to a position in a comparable
18 pay and benefit category with duties within the member's capacity if an appropriate vacancy exists within the
19 member's fire department. The board shall advise the employer that the disability retirement benefit has been
20 canceled and that the inactive member is eligible for reinstatement to duty. The fact that the member was retired
21 for disability may not prejudice any right to reinstatement to duty that the inactive member may have or claim
22 to have.

23 (b) If an appropriate vacancy does not exist within an inactive member's fire department when the
24 member's disability benefit is canceled under 19-13-804, the member's benefit must be reinstated until a
25 vacancy occurs.

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

28 (2) The employer may request a medical or psychological review as to the ability of the member to
29 return to work as a firefighter. If the board's findings are upheld, the employer shall pay the costs of the review.

30 (3) If the inactive member again becomes an active member by returning to active work for an employer

1 within 30 days following receipt of notice under 19-13-804, the member is considered to have been continuously
 2 employed during the term of the member's disability. If the inactive member fails to become an active member
 3 by returning to active work for an employer within 30 days following receipt of ~~this~~ the notice, the member's
 4 termination of ~~employment~~ service is considered to have occurred as of the member's disability retirement date
 5 and the retirement benefit, if any, to which the member becomes entitled on the member's service retirement
 6 must be determined accordingly."

7

8 **Section 68.** Section 19-17-108, MCA, is amended to read:

9 **"19-17-108. Credit for service as volunteer firefighter.** (1) The annual period of service that may be
 10 credited under this chapter is the fiscal year. A fractional part of a year may not count toward the service required
 11 for participation in this system. To be eligible to receive credit for any particular year, a volunteer firefighter shall
 12 serve with a fire company throughout the entire fiscal year.

13 (2) The years of service are cumulative and need not be continuous. Separate periods of service
 14 properly credited with different fire companies in different fire districts must be credited toward a member's
 15 eligibility for full or partial benefits.

16 (3) A volunteer firefighter must receive credit for service during any fiscal year if:

17 (a) during the fiscal year, the volunteer firefighter completes a minimum of 30 hours of instruction in
 18 matters pertaining to firefighting under a formal program that has been formulated, supervised, and certified to
 19 the board by the chief or supervisor of the fire company;

20 (b) the volunteer firefighter's participation in the program is documented in the fire department records
 21 filed and maintained by the chief or supervisor; and

22 (c) the fire company maintained firefighting equipment that is in serviceable condition and owns one
 23 or more buildings used for the storage of that equipment that all together are valued at \$12,000 or more; ~~and~~

24 ~~—— (d) the fire company or the fire district served by it was rated in class 5, 6, 7, 8, 9, or 10 by the board
 25 of fire underwriters for the purpose of fire insurance premium rates."~~

26

27 **Section 69.** Section 19-17-407, MCA, is amended to read:

28 **"19-17-407. Exemption from taxation and legal process.** (1) The first \$3,600 or the amount
 29 determined pursuant to 15-30-111(2)(c)(ii) of benefits received under this part is exempt from state, county, and
 30 municipal taxation.

1 (2) ~~Except as provided in 19-2-907 and 19-2-909, benefits~~ Benefits received under this part are not
2 subject to execution, garnishment, attachment, or any other process."

3

4 **Section 70.** Section 19-19-205, MCA, is amended to read:

5 **"19-19-205. Actuarial valuation of police retirement fund.** (1) The city treasurer shall submit to the
6 public employees' retirement board before ~~October~~ September 1 of each odd-numbered year all information
7 requested by the public employees' retirement board necessary to complete an actuarial valuation of the city's
8 police retirement fund. The valuation must consider the actuarial soundness of the police retirement fund for the
9 2 preceding fiscal years.

10 (2) The valuation must be prepared by a qualified actuary selected by the public employees' retirement
11 board. A qualified actuary is a member of the American academy of actuaries or of any organization considered
12 by the department to have similar standards.

13 (3) In each fiscal year in which an actuarial valuation is prepared, the public employees' retirement
14 board shall submit to the state treasurer a request for payment of the expense incurred in securing the actuarial
15 valuation. The expense may not exceed \$6,000 in any fiscal year. The state treasurer shall make payment to
16 the actuary from the general fund."

17

18 **Section 71.** Section 19-50-103, MCA, is amended to read:

19 **"19-50-103. No effect on other retirement programs -- taxes deferred.** The deferred compensation
20 program established by this chapter is in addition to retirement, pension, or benefit systems, including plans
21 qualifying under section 403(b) of the Internal Revenue Code, 26 U.S.C. 403(b), as amended, established by
22 the state or a political subdivision, and no deferral of income under the deferred compensation program may
23 affect a reduction of any retirement, pension, or other benefit provided by law. However, any sum deferred under
24 the deferred compensation program is not subject to taxation until distribution is actually made to the participant
25 or the participant's beneficiary because of ~~separation~~ severance from ~~service employment~~, retirement, or
26 unforeseeable emergency. For purposes of this chapter, any qualified private pension plans now in existence
27 qualify."

28

29 **Section 72.** Section 19-50-104, MCA, is amended to read:

30 **"19-50-104. Eligibility to catch up -- normal retirement age.** ~~For~~ (1) Except as provided in subsection

1 (2), for the purposes of determining a participant's eligibility to catch up on making the maximum annual deferrals
 2 allowable, normal retirement age must be specified in writing by the participant and must be no earlier than:

3 (1)(a) the age at which the participant is eligible to retire pursuant to the participant's Title 19 retirement
 4 system because of the participant's age, length of service, or both, without disability, and with the right to receive
 5 immediate retirement benefits without actuarial or similar reduction because of retirement before a specified age;
 6 or

7 (2)(b) 60 65 years of age if the participant is not a member of a Title 19 retirement plan or system, is
 8 a member of a defined contribution retirement plan, or is an independent contractor.

9 (2) An eligible plan with participants that include qualified police or firefighters, as defined under 26
 10 U.S.C. 415(b)(2)(H)(ii)(I), may either:

11 (a) designate a normal retirement age for the qualified police or firefighters that is no less than 40 years
 12 of age; or

13 (b) allow a qualified police or firefighter participant to designate a normal retirement age that is between
 14 40 and 70 1/2 years of age.

15 (3) Qualified police or firefighters, as defined in 26 U.S.C. 415(b)(2)(H)(ii)(I), include:

16 (a) police who are members of the municipal police officers' retirement system provided for in Title 19,
 17 chapter 9;

18 (b) police who are members of a local police retirement system provided for in Title 19, chapter 19;

19 (c) firefighters who are members of the firefighters' unified retirement system provided for in Title 19,
 20 chapter 13;

21 (d) firefighters who are members of a local firefighters' retirement system provided for in Title 19,
 22 chapter 18; and

23 (e) firefighters who are members of the defined benefit retirement plan of the public employees'
 24 retirement system provided for in Title 19, chapter 3."

25

26 **Section 73.** Section 44-1-515, MCA, is amended to read:

27 **"44-1-515. Assignment to light duty or another position within department of justice.** (1) The chief,
 28 taking into consideration the medical opinions ~~he~~ that the chief has received, may determine at any time that
 29 an injured officer is able to perform light ~~police~~ duty consistent with ~~his~~ the officer's status as a law enforcement
 30 officer and may order that the officer be assigned to ~~such~~ the light duty. If the officer refuses to perform the light

1 duty, payment of the salary benefit under 44-1-511 ~~shall~~ must be discontinued.

2 (2) The chief may order ~~an~~ that the injured officer be transferred from the ~~highway patrol position~~
3 covered under the highway patrol officers' retirement system to another position within the department of justice
4 that is not covered under the highway patrol officers' retirement system. An officer may decline to accept a
5 transfer under this subsection with no loss of salary benefit."

6

7 **Section 74.** Section 44-1-518, MCA, is amended to read:

8 **"44-1-518. Contribution for retirement -- length of service credit -- transfer of retirement**

9 **contributions and length of service credit.** (1) When an officer receives compensation under 44-1-511, the

10 officer's contribution for retirement under 19-6-402 must be paid on the compensation received under 44-1-511

11 and the state's contribution for retirement under 19-6-404 must be paid on the compensation received under

12 44-1-511.

13 (2) The time for which contributions are paid under 44-1-511 ~~shall~~ must be credited to the length of
14 service computed for retirement purposes under 19-2-701.

15 (3) When a disabled officer who qualifies for benefits under 44-1-511 accepts a transfer under 44-1-515

16 to a nonhighway patrol position within the department of justice that is covered under the Public Employees'

17 Retirement System Act, all ~~or any portion~~ of the officer's length of service credited with the ~~Montana~~ highway

18 patrol officers' retirement system must be transferred to the public employees' retirement system according to

19 19-2-715, ~~in the officer's credit and the officer's accumulated contributions and the state's adjusted contributions,~~

20 ~~with accrued interest, credited to the officer in the Montana highway patrol officers' retirement account must be~~

21 ~~transferred to the public employees' retirement account in the officer's credit. The state's "adjusted contributions"~~

22 ~~means an amount equal to the amount that would have been contributed by the state had the transferred service~~

23 ~~been employment covered under the public employees' retirement system."~~

24

25 NEW SECTION. **Section 75. Effective date.** [This act] is effective July 1, 2005.

26

- END -