

HOUSE BILL NO. 105

INTRODUCED BY T. STEENBERG

BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PROVISIONS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, THE JUDGES' RETIREMENT SYSTEM, THE HIGHWAY PATROL OFFICERS' RETIREMENT SYSTEM, THE SHERIFFS' RETIREMENT SYSTEM, THE GAME WARDENS' AND PEACE OFFICERS' RETIREMENT SYSTEM, THE MUNICIPAL POLICE OFFICERS' RETIREMENT SYSTEM, THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM, AND THE VOLUNTEER FIREFIGHTERS' COMPENSATION ACT; REVISING PROVISIONS RELATED TO RETIREMENT, DISABILITY, AND DEATH BENEFITS AND PAYMENTS; REVISING PROVISIONS RELATED TO OPTIONAL MEMBERSHIP, SERVICE CREDIT, AND REEMPLOYMENT; PROVIDING FOR TRAVEL EXPENSES FOR THE EMPLOYEE INVESTMENT ADVISORY COUNCIL; REVISING DEATH BENEFITS UNDER THE SHERIFFS' RETIREMENT SYSTEM; REVISING CANCELLATION AND REINSTATEMENT OF DISABILITY BENEFITS UNDER THE VOLUNTEER FIREFIGHTERS' COMPENSATION ACT; CORRECTING TERMINOLOGY AND INTERNAL REFERENCES; ELIMINATING EXPIRED PROVISIONS; AMENDING SECTIONS 19-2-303, 19-2-403, 19-2-406, 19-2-505, 19-2-706, 19-2-801, 19-2-907, 19-3-412, 19-3-512, 19-3-908, 19-3-1103, 19-3-1106, 19-3-1210, 19-3-1501, 19-3-2133, 19-3-2141, 19-5-601, 19-5-701, 19-5-801, 19-5-802, 19-6-601, 19-7-503, 19-7-601, 19-7-901, 19-7-1001, 19-8-302, 19-8-701, 19-8-801, 19-8-1002, 19-9-710, 19-9-1007, 19-13-104, 19-13-803, AND 19-17-605, MCA; REPEALING SECTION 19-3-1005, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 19-2-303, MCA, is amended to read:

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

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

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

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

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

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

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

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

12 (8) "Annuity" means:

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

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

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

19 (10) "Benefit" means:

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

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

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

26 (12) "Contingent annuitant" means:

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

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

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

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

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

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

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

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

14 (19) "Direct rollover" means a payment by the retirement plan to the eligible retirement plan specified by
15 the distributee or a payment from an eligible retirement plan to the retirement plan specified by the distributee.

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

20 (21) "Distributee" means:

21 (a) a member;

22 (b) a member's surviving spouse;

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

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

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

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

- 1 (a) an individual retirement account described in section 408(a) of the Internal Revenue Code, 26 U.S.C.
2 408(a);
- 3 (b) an individual retirement annuity described in section 408(b) of the Internal Revenue Code, 26 U.S.C.
4 408(b);
- 5 (c) an annuity plan described in section 403(a) of the Internal Revenue Code, 26 U.S.C. 403(a);
- 6 (d) a qualified trust described in section 401(a) of the Internal Revenue Code, 26 U.S.C. 401(a);
- 7 (e) effective January 1, 2002, an annuity contract described in section 403(b) of the Internal Revenue
8 Code, 26 U.S.C. 403(b);
- 9 (f) effective January 1, 2002, a plan eligible under section 457(b) of the Internal Revenue Code, 26
10 U.S.C. 457(b), that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of
11 a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan
12 from a plan under this title; or
- 13 (g) effective January 1, 2008, a Roth IRA described in section 408A of the Internal Revenue Code, 26
14 U.S.C. 408A.
- 15 (24) "Eligible rollover distribution":
- 16 (a) means any distribution of all or any portion of the balance from a retirement plan to the credit of the
17 distributee, as provided in 19-2-1011;
- 18 (b) effective January 1, 2002, includes a distribution to a surviving spouse or to a spouse or former
19 spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Internal
20 Revenue Code, 26 U.S.C. 414(p).
- 21 (25) "Employee" means a person who is employed by an employer in any capacity and whose salary is
22 being paid by the employer or a person for whom an interlocal governmental entity is responsible for paying
23 retirement contributions pursuant to 7-11-105.
- 24 (26) "Employer" means a governmental agency participating in a retirement system enumerated in
25 19-2-302 on behalf of its eligible employees. The term includes an interlocal governmental entity identified as
26 responsible for paying retirement contributions pursuant to 7-11-105.
- 27 (27) "Essential elements of the position" means fundamental job duties. An element may be considered
28 essential because of but not limited to the following factors:
- 29 (a) the position exists to perform the element;
- 30 (b) there are a limited number of employees to perform the element; or

1 (c) the element is highly specialized.

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

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

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

7 (31) "Member" means either:

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

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

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

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

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

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

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

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

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

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

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

- 1 (40) "Retirement" or "retired" means the status of a member who has:
2 (a) terminated from service; and
3 (b) received and accepted a retirement benefit from a retirement plan.
- 4 (41) "Retirement account" means an individual account within the defined contribution retirement plan
5 for the deposit of employer and member contributions and other assets for the exclusive benefit of a member of
6 the defined contribution plan or the member's beneficiary.
- 7 (42) "Retirement benefit" means:
8 (a) in the case of a defined benefit plan, the periodic benefit payable as a result of service retirement,
9 early retirement, or disability retirement under a defined benefit plan of a retirement system. With respect to a
10 defined benefit plan, the term does not mean an annuity.
11 (b) in the case of the defined contribution plan, a benefit as defined in subsection (10)(b).
- 12 (43) "Retirement plan" or "plan" means either a defined benefit plan or a defined contribution plan under
13 one of the public employee retirement systems enumerated in 19-2-302.
- 14 (44) "Retirement system" or "system" means one of the public employee retirement systems enumerated
15 in 19-2-302.
- 16 (45) "Service" means employment of an employee in a position covered by a retirement system.
- 17 (46) "Service credit" means the periods of time for which the required contributions have been made to
18 a retirement plan and that are used to calculate retirement benefits or survivorship benefits under a defined
19 benefit retirement plan.
- 20 (47) "Service retirement benefit" means the retirement benefit that the member may receive at normal
21 retirement age.
- 22 (48) "Statutory beneficiary" means the surviving spouse or dependent child or children of a member of
23 the highway patrol officers', municipal police officers', or firefighters' unified retirement system who are statutorily
24 designated to receive benefits upon the death of the member.
- 25 (49) "Supplemental cost" means an element of the total actuarial cost of a defined benefit retirement plan
26 arising from benefits payable for service performed prior to the inception of the retirement plan or prior to the date
27 of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure to fund or otherwise
28 recognize normal cost accruals or interest on supplemental costs. These costs are included in the unfunded
29 actuarial liabilities of the retirement plan.
- 30 (50) "Survivorship benefit" means payments for life to the statutory or designated beneficiary of a

1 deceased member who died while in service under a defined benefit retirement plan.

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

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

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

8 (52) "Termination of service", "termination from service", "terminated from service", "terminated service",
9 "terminating service", or "terminates service" means that:

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

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

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

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

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

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

24 (a) the member's contribution account;

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

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

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

28 (a) with respect to a defined benefit plan, a member or the status of a member who has at least 5 years
29 of membership service; or

30 (b) with respect to the defined contribution plan, a member or the status of a member who meets the

1 minimum membership service requirement of 19-3-2116.

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

5 (57) "Written instrument" includes an electronic record containing an electronic signature, as defined in
6 30-18-102."

7

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

9 **"19-2-403. Powers and duties of board.** (1) The board shall administer the provisions of the chapters
10 enumerated in 19-2-302.

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

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

15 (4) The board shall determine who are employees within the meaning of each retirement system. The
16 board is the sole authority for determining the conditions under which persons may become members of and
17 receive benefits under the retirement systems. A person whose job duties require proportional membership in
18 more than one retirement system is subject to the provisions of those systems.

19 (5) If fraud or error results in an employee or member being reported to the incorrect retirement system,
20 the board shall correct the error and adjust contributions as necessary.

21 ~~(5)(6)~~ The board shall determine and may modify retirement benefits under the retirement systems.
22 Benefits may be paid only if the board decides, in its discretion, that the applicant is, under the provisions of the
23 appropriate retirement system, entitled to the benefits.

24 ~~(6)(7)~~ In matters of board discretion under the systems, the board shall treat all persons in similar
25 circumstances in a uniform and nondiscriminatory manner.

26 ~~(7)(8)~~ The board shall maintain records and accounts it determines necessary for the administration of
27 the retirement systems.

28 ~~(8)(9)~~ The board shall enter into memoranda of understanding with the teachers' retirement system to
29 exchange retirement system-related confidential information regarding members, former members, or retirees.

30 A memorandum must state that:

1 (a) the information may be used only for reasons related to verifying appropriate pension plan
2 participation; and

3 (b) the requesting retirement system agrees to protect the confidentiality of the information and will
4 disclose the requested information only as necessary to conduct official business.

5 ~~(9)~~(10) Upon the basis of the findings of the actuary pursuant to 19-2-405, the board shall adopt actuarial
6 rates and rates of regular interest it determines appropriate for the administration of the retirement systems.

7 ~~(10)~~(11) The board shall review the sufficiency of benefits paid by the retirement system or plan and
8 recommend to the legislature those changes in benefits in a defined benefit plan or in contributions under the
9 defined contribution plan that may be necessary for members and their beneficiaries to maintain a stable standard
10 of living.

11 ~~(11)~~(12) The board may implement third-party mailings under the provisions of 2-6-109. If third-party
12 mailings are implemented, the board shall adopt rules governing means of implementation, including the
13 specification of eligible third parties, appropriate materials, and applicable fees and procedures. Fees generated
14 by third-party mailings must be deposited in the appropriate retirement system fund for the benefit of participants
15 of retirement systems or plans administered by the board.

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

21 ~~(13)~~(14) The board may by rule or otherwise delegate to the board's executive director or any other staff
22 member any of the powers or duties conferred by law upon the board except as otherwise provided by law and
23 except for the adoption of rules and the issuance of final orders after hearings held pursuant to subsection ~~(12)~~
24 (13) or the contested case procedure of the Montana Administrative Procedure Act.

25 ~~(14)~~(15) The board shall perform other duties and may exercise the powers concerning the defined
26 contribution plan for plan members as provided in chapter 3, part 21, of this title."
27

28 **Section 3.** Section 19-2-406, MCA, is amended to read:

29 **~~"19-2-406. Determination of disability by board -- compliance with federal law -- conversion to~~**
30 **~~service retirement benefit~~ Disability retirement -- application -- determination -- benefit conversion -- rules.**

1 (1) (a) An active or inactive member may apply for disability retirement in a manner prescribed by the board.
 2 However, an application may also be filed on the member's behalf by the head of the office or department in
 3 which the member is or was last employed, by any other individual, or by the board.

4 (b) The application must be filed within 4 months after the member's termination from employment unless
 5 the member is disabled continuously from the date of termination from employment to the date of the application.

6 ~~(1)~~(2) The board shall determine whether a member has become disabled. In the discharge of its duty
 7 regarding determinations, the board, any member of the board, or any authorized representative of the board may
 8 order medical examinations, conduct hearings, administer oaths and affirmations, take depositions, certify to
 9 official acts and records, and issue subpoenas to compel the attendance of witnesses and the production of
 10 books, papers, correspondence, memoranda, and other records considered necessary as evidence in connection
 11 with a claim for disability retirement. Subpoenas must be issued and enforced pursuant to 2-4-104 of the Montana
 12 Administrative Procedure Act.

13 ~~(2)~~(3) The board shall adopt rules requiring employers to identify and explain the essential elements of
 14 a member's position, any accommodations that were or can be made in compliance with the Americans With
 15 Disabilities Act of 1990 (42 U.S.C. 12101, et seq.), and the effectiveness of the accommodations.

16 ~~(3)~~(4) The board shall retain medical personnel to advise it in assessing the nature and extent of
 17 disabling conditions while reviewing claims for disability retirement.

18 ~~(4)~~(5) The disability retirement benefit paid to a member of the defined benefit plan must be converted
 19 to a service retirement benefit, without recalculation of the monthly benefit amount, when the member has
 20 attained normal retirement age. The board shall notify the member in writing as to the change in status."
 21

22 **Section 4.** Section 19-2-505, MCA, is amended to read:

23 **"19-2-505. Restrictions on use of funds.** (1) Except as provided in this section, a member or an
 24 employee of the board or the board of investments may not:

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

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

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

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

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

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

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

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

11 (5) The accumulated contributions of a vested or nonvested member that are not claimed within 5 years
12 after the member's death are forfeited and revert to the retirement system trust fund.

13 ~~(5)(6)~~ This section does not prevent the administration of an investment alternative within the defined
14 contribution plan to the same extent that all other investment alternatives within the defined contribution plan are
15 managed."

16

17 **Section 5.** Section 19-2-706, MCA, is amended to read:

18 **"19-2-706. Additional service credit for active member involuntarily terminated from employment.**

19 (1) The provisions of subsection (3) apply to an employee of the state or university system if:

20 (a) the employee is an active member of the public employees' defined benefit plan or the game
21 wardens' and peace officers', sheriffs', firefighters' unified, or highway patrol officers' retirement system;

22 (b) the employee has involuntarily terminated from employment because of elimination of the employee's
23 position as a result of privatization, reorganization of an agency, closure of or a reduction in force at an agency,
24 or other actions by the legislature or, in the case of a member who is a legislator, the legislator is terminated from
25 office in either one of the houses of the legislature because of term limits;

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

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

30 (2) The cost of each year of service credit purchased under this section is the total actuarial cost of

1 purchasing the service credit based on the most recent actuarial valuation of the retirement system.

2 (3) The employer of an eligible member under subsection (1) shall pay a portion of the total cost of
3 purchasing up to 3 years of additional service credit that the member was qualified to purchase under 19-3-513,
4 19-6-804, 19-7-804, 19-8-904, or 19-13-405. The employer-paid portion must be calculated using the formula A
5 $\times B \times C$ when:

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

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

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

13 (4) The member shall pay the difference, if any, between the full actuarial cost of the service credit to
14 be purchased and the contribution required from the employer under subsection (3). The member may elect to
15 purchase less than the full amount of service for which the member is eligible under this section, but the election
16 may not reduce the amount of the employer's contribution as calculated under subsection (3).

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

19 (6) (a) A member who has received additional service credit under this section and who returns to
20 employment for the same jurisdiction for 960 or more hours in a calendar year in any retirement system forfeits
21 the additional service credit. The employer's contribution to purchase that member's additional service credit,
22 minus any the proportional amount of retirement benefits related to the additional service purchased under this
23 section and already paid, must be credited to the employer.

24 (b) As used in subsection (6)(a), the term "same jurisdiction" means all agencies of the state, including
25 the university system."
26

27 **Section 6.** Section 19-2-801, MCA, is amended to read:

28 **"19-2-801. Designation of beneficiary.** (1) In the absence of any statutory beneficiaries, designated
29 beneficiaries are the natural persons, charitable organizations, estate of the payment recipient, or trusts for the
30 benefit of natural living persons that the member or payment recipient designates on the membership card or

1 other form provided by the board.

2 (2) Unless otherwise provided by ~~statute~~ this title or by a valid temporary restraining order issued
3 pursuant to 40-4-121, a member or payment recipient may revoke the designation and name different designated
4 beneficiaries by filing with the board a new membership card or other form provided by the board.

5 (3) If a person returns to covered employment in the same retirement system pursuant to 19-2-603, the
6 board shall reference the membership card executed by the person prior to initial termination of membership for
7 the same purposes as prior to termination. Beneficiaries nominated on that membership card continue until
8 changed as provided in subsection (2) of this section.

9 (4) (a) Except as provided in subsections (4)(b) and (4)(c), the beneficiary designation on the most recent
10 membership card filed with the board is effective for all purposes until the member retires.

11 (b) A member may elect to either override or retain the member's existing beneficiary designation when
12 completing a membership card for temporary or secondary employment with another employer within the same
13 Title 19 retirement system.

14 (c) When a member retires, the designated beneficiaries or contingent annuitants named on the
15 retirement application become effective.

16 (5) If a statutory or designated beneficiary predeceases the member or payment recipient, the
17 predeceased beneficiary's share must be paid to the remaining statutory or designated beneficiaries in amounts
18 proportional to each remaining statutory or designated beneficiary's original share.

19 (6) A statutory or designated beneficiary who renounces an interest in the payment rights of a member
20 or payment recipient will be considered, with respect to that interest, as having predeceased the member or
21 payment recipient.

22 (7) A contingent annuitant of a retired member who elected option 2, 3, or 4 pursuant to 19-3-1501,
23 19-5-701, 19-7-1001, or 19-8-801 may not renounce the contingent annuitant's interest in the payment rights of
24 the member."
25

26 **Section 7.** Section 19-2-907, MCA, is amended to read:

27 **"19-2-907. Alternate payees -- family law orders -- rulemaking.** (1) A participant in a retirement
28 system may have the participant's rights modified or recognized by a family law order.

29 (2) For purposes of this section:

30 (a) "family law order" means a judgment, decree, or order of a court of competent jurisdiction under Title

1 40 concerning child support, parental support, spousal maintenance, or marital property rights that includes a
2 transfer of all or a portion of a participant's payment rights in a retirement system to an alternate payee in
3 compliance with this section and with section 414(p) of the Internal Revenue Code, 26 U.S.C. 414(p); and

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

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

12 (4) Except as provided in subsection (6)(a), a family law order may not require:

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

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

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

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

23 (b) The maximum amount of disability or survivorship benefits that may be paid to alternate payees is
24 the monthly benefit amount that would have been payable on the date of termination of service if the member had
25 retired without disability or death. The maximum amount paid may be zero, depending on the member's age and
26 service credit at the time of disability or death. Conversion of a disability retirement to a service retirement
27 pursuant to 19-2-406(4)(5), 19-3-1015(2), 19-6-612(2), or 19-8-712(2) does not increase the maximum monthly
28 amount that may be paid to an alternate payee.

29 (c) Retirement benefit adjustments for which a participant is eligible after retirement may be paid as a
30 percentage only if existing benefit payments are paid as a percentage. The adjustments must be paid as a

1 percentage in the same ratio as existing benefit payments.

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

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

6 (a) The vested account of the participant may be apportioned by directing payment of either a percentage
7 or a fixed amount. The total amount paid may not exceed the amount in the participant's vested account. The
8 alternate payee may receive the payment only as a direct payment, rollover, or transfer. The alternate payee's
9 portion must be totally disbursed to the alternate payee as soon as administratively feasible upon the board's
10 approval of the family law order.

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

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

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

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

24 (10) The board shall adopt rules to provide for the administration of family law orders."
25

26 **Section 8.** Section 19-3-412, MCA, is amended to read:

27 **"19-3-412. Optional membership.** (1) Except as provided in 5-2-304 and subsection (2) of this section,
28 the following employees and elected officials in covered positions shall elect either to become active members
29 of the retirement system or to decline this optional membership by filing an irrevocable, written application with
30 the board in the manner prescribed in subsection (3):

- 1 (a) elected officials of the state or local governments, including individuals appointed to fill the unexpired
2 term of elected officials, who:
- 3 (i) are paid on a salary or wage basis rather than on a per diem or other reimbursement basis; or
4 (ii) were members receiving retirement benefits under the defined benefit plan or a distribution under the
5 defined contribution plan at the time of their election;
- 6 (b) employees serving in employment that does not cumulatively exceed a total of 960 hours of covered
7 employment with all employers under this chapter in any fiscal year;
- 8 (c) employees directly appointed by the governor;
- 9 (d) employees working 10 months or less for the legislative branch to perform work related to the
10 legislative session;
- 11 (e) the chief administrative officer of any city or county;
- 12 (f) employees of county hospitals or rest homes.
- 13 (2) A member who is elected to a local government position in which the member works less than 960
14 hours in a ~~calendar~~ fiscal year may, within 90 days of taking office, decline optional membership with respect to
15 the member's elected position.
- 16 (3) (a) The board shall prescribe the form of the written application required pursuant to subsection (1)
17 and provide written application forms to each employer.
- 18 (b) Each employee or elected official in a position covered under subsection (1) shall obtain the written
19 application form from the employer and complete and return it to the board.
- 20 (c) The written application must be filed with the board:
- 21 (i) for an employee described in subsection (1)(d), within 90 days of the commencement of the
22 employee's employment; and
- 23 (ii) for an employee or elected official described in subsection (1)(a), (1)(b), (1)(c), (1)(e), or (1)(f), within
24 90 days of the commencement of the employee's or elected official's employment.
- 25 (d) The employer shall retain a copy of the employee's or elected official's written application.
- 26 (4) If the employee or elected official fails to file the written application required under subsection (1) with
27 the board within the time allowed in subsection (3), the employee or elected official waives membership.
- 28 (5) An employee or elected official who declines optional membership may not receive membership
29 service or service credit for the employment for which membership was declined.
- 30 (6) An employee or elected official who declined optional membership but later becomes a member may

1 purchase service credit for the period of time beginning with the date of employment in which membership was
2 declined to the commencement of membership. Purchase of service credit pursuant to this subsection must
3 comply with 19-3-505.

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

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

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

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

10 (8) (a) An employee who declines membership for a position for which membership is optional may not
11 later become a member while still employed with the same employer but in a different optional membership
12 position.

13 (b) An elected official who declines membership for a position for which membership is optional may not
14 later become a member if reelected to the same optional membership position.

15 (c) If, after termination from employment for 30 days or more, an employee who was employed in an
16 optional membership position is reemployed in the same position or is employed in a different position for which
17 membership is optional, the employee shall again choose or decline membership.

18 (d) If the termination from employment is less than 30 days, an employee who declined membership is
19 bound by the employee's original decision to decline membership.

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

22

23 **Section 9.** Section 19-3-512, MCA, is amended to read:

24 **"19-3-512. Purchase of service credit from other public retirement systems.** (1) Subject to 19-3-514,
25 a member with at least 5 years of membership service in the public employees' retirement system may purchase
26 service credit for:

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

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

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

3 (a) at any time before retirement, file a written application with the board; and

4 (b) pay the actuarial cost of the service credit in the public employees' retirement system, as determined
5 by the board, based on the system's most recent actuarial valuation.

6 ~~_____ (3) Service credit purchased under this section may not be used to qualify a member to purchase military
7 service under 19-3-503.~~

8 ~~(4)~~(3) Service credit purchased under this section may not be used in calculating a member's retirement
9 benefit unless the member's last 5 years of service credit were earned under the public employees' retirement
10 system. If, upon the member's retirement, the member's purchased service credit cannot be used in calculating
11 the member's retirement benefit, the member must receive a refund of the amount paid to purchase the service
12 credit, plus regular interest on that amount."

13

14 **Section 10.** Section 19-3-908, MCA, is amended to read:

15 **"19-3-908. Retirement incentive program -- window of eligibility.** (1) Except as provided in
16 subsection (4), a person who is an active member on February 1, 1993, and who voluntarily terminates service
17 or who is involuntarily terminated from service because of a reduction in force on or after June 25, 1993, but
18 before January 1, 1994, and who is eligible for a normal service retirement under 19-3-901 or early retirement
19 under 19-3-902 is entitled to the retirement incentive provided in subsection (2).

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

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

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

28 (3) An active member who is involuntarily terminated from service because of a reduction in force on or
29 after March 1, 1993, but before June 25, 1993, and who, if the member had not been terminated from service,
30 would have been eligible under subsection (1) for the retirement incentive is entitled to the retirement incentive

1 under subsection (2) if the member was, at the time of termination from service, eligible for service retirement
2 under 19-3-901 or early retirement under 19-3-902 and retires on or after June 25, 1993.

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

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

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

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

19

20 **Section 11.** Section 19-3-1103, MCA, is amended to read:

21 **"19-3-1103. Disability benefit reduced by earnings.** (1) (a) If the recipient of a disability retirement
22 benefit ~~engages in a gainful occupation during any month other than~~ is self-employed or employed in a position
23 not covered by the retirement system, the recipient shall submit to the board an annual earnings statement, and
24 any other documentation requested by the board, covering each month during which the recipient was
25 self-employed or employed in the position.

26 (b) ~~the~~ The amount of the recipient's retirement benefit for ~~that~~ each month of employment must be
27 reduced to an amount that, when added to the compensation earned by the recipient in that occupation, does
28 not exceed the amount of the recipient's monthly compensation at the time of the recipient's retirement.

29 (b)(c) The board shall annually adjust the recipient's monthly compensation as it was at the time of
30 retirement by an inflationary factor if the recipient has been receiving a disability retirement benefit for more than

1 36 consecutive months.

2 (d) If the disability benefit recipient fails to submit the documentation as required under subsection (1)(a),
3 the board may suspend the benefit payments until it receives the documentation.

4 (2) Benefit adjustments granted by the legislature may not be included in calculations required under this
5 section."

6

7 **Section 12.** Section 19-3-1106, MCA, is amended to read:

8 **"19-3-1106. Limited reemployment -- reduction of service retirement benefit upon exceeding limits**

9 **-- reporting obligations -- liability -- exceptions.** (1) A retired member under 65 years of age who was hired
10 prior to July 1, 2011, who has been terminated from employment for at least 90 days, and who is receiving a
11 service retirement benefit or early retirement benefit may return to employment covered by the retirement system
12 for a period not to exceed 960 hours in any calendar year without returning to active service and without any
13 effect to the retiree's retirement benefit. The retirement benefit for any retiree exceeding this 960-hour limitation
14 in any calendar year after retirement must be temporarily reduced \$1 for each \$1 earned after working 960 hours
15 in that calendar year.

16 (2) A retired member who is 65 years of age or older but less than 70 1/2 years of age, who has been
17 terminated from employment for at least 90 days, and who returns to employment covered by the retirement
18 system is either subject to the 960-hour limitation of subsection (1) or may earn in any calendar year an amount
19 that, when added to the retiree's current annual retirement benefit, will not exceed the member's annualized
20 highest average compensation, adjusted for inflation as of January 1 of the current calendar year, whichever
21 limitation provides the higher limit on earned compensation to the retiree. Upon reaching the applicable limitation,
22 the retiree's benefits must be temporarily reduced \$1 for each \$1 of compensation earned in service beyond the
23 applicable limitation during that calendar year.

24 (3) (a) The employer of a retiree returning to employment covered by the retirement system shall certify
25 to the board the number of hours worked by the retiree and the gross compensation paid to the retiree in that
26 employment during any pay period after retirement. The certification of hours and compensation may be
27 submitted electronically pursuant to rules adopted by the board.

28 (b) An employer that fails to timely or accurately report the employment of, time worked by, or
29 compensation paid to a retired member as required under subsection (3)(a) is jointly and severally liable with the
30 retired member for repayment to the retirement system of retirement benefits paid to which the member was not

1 entitled, plus interest.

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

4 (5) The following members who return to employment covered by the retirement system are not subject
5 to the hour or earnings limitations in subsections (1) and (2) or the reporting requirements in subsection (3):

6 (a) a retired member who is 70 1/2 years of age or older; or

7 (b) an elected official in a covered position who, as a retired member, declines optional membership as
8 provided in 19-3-412.

9 (6) Except as provided in subsection (5), if a retired member is employed by an employer in a position
10 that is reportable to the retirement system and the retired member is concurrently working for the employer in
11 another position that is not reportable to the system, the position that is not reportable is considered to be part
12 of the position that is reportable to the retirement system. All earnings of the retired member that are generated
13 by these positions are reportable to the retirement system.

14 (7) For the purposes of this section, "employment covered by the retirement system" includes:

15 (a) work performed by a retiree through a professional employer arrangement, an employee leasing
16 arrangement, or a temporary service contractor as those terms are defined in 39-8-102; and

17 (b) services performed by a retiree as an independent contractor for an employer participating in the
18 system."

19

20 **Section 13.** Section 19-3-1210, MCA, is amended to read:

21 **"19-3-1210. Death payments to designated beneficiaries of retired members.** (1) When a retired
22 member receiving an option 1 retirement benefit under 19-3-1501 dies, the member's designated beneficiary or,
23 if there is no surviving designated beneficiary, the member's estate must be paid the amount, if any, of the
24 member's accumulated contributions calculated as of the day of the member's retirement minus the total of any
25 retirement benefits already paid from the member's account.

26 (2) If a retired member receiving an option 2 or 3 retirement benefit under 19-3-1501 dies without
27 designating a contingent annuitant under 19-3-1504 with no surviving contingent annuitant, the member's
28 designated beneficiary or, if there is no surviving designated beneficiary, the member's estate must be paid the
29 amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement
30 minus the total of any retirement benefits already paid from the member's account.

1 (3) This section does not apply if the member was receiving a disability benefit."

2

3 **Section 14.** Section 19-3-1501, MCA, is amended to read:

4 **"19-3-1501. Optional forms of benefits -- designation of contingent annuitant.** (1) The retirement
5 benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted, in
6 lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of
7 the original benefit. If the member does not elect an optional retirement benefit pursuant to subsection (2), the
8 member's retirement benefit is known as an option 1 benefit.

9 (2) An optional retirement benefit under this subsection (2) is initially payable during the member's or
10 designated beneficiary's lifetime, with a subsequent benefit, depending on the option selected, to a contingent
11 annuitant as follows:

12 (a) option 2--a continuation of the optional retirement benefit after the death of the initial payee and
13 payable during the lifetime of the named contingent annuitant. This option may be the chosen benefit only if the
14 adjusted age difference between the member or designated beneficiary and the contingent annuitant, other than
15 the member's or designated beneficiary's spouse, is 10 years or less. The adjusted age difference is either:

16 (i) the excess of the age of the member or designated beneficiary over the age of the nonspouse
17 contingent annuitant based on their ages on their birthdays in a calendar year; or

18 (ii) if the member or designated beneficiary is under 70 years of age, the age difference determined in
19 subsection ~~(1)(a)(i)~~ (2)(a)(i) reduced by the number of years that the member or designated beneficiary is under
20 70 years of age on the member's or beneficiary's birthday in the calendar year that contains the benefit starting
21 date.

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

24 (c) option 4--a continuation of the optional retirement benefit to one or more contingent annuitants in the
25 event of the initial payee's death 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 (iii) if all surviving contingent annuitants die prior to the end of the period certain and the last remaining
3 contingent annuitant has failed to name a designated beneficiary, the remaining payments must be converted
4 to an equivalent lump-sum amount and paid to the estate of the last surviving contingent annuitant.

5 ~~(2)~~(3) The member or the designated beneficiary who elects an optional retirement benefit under
6 subsection (2) shall file a written application with the board prior to the first payment of the benefit. A contingent
7 annuitant must be identified on the application.

8 ~~(3)~~(4) If the member or designated beneficiary or the named contingent annuitant dies before the first
9 payment has been made under option 2 or 3, the election of the option is automatically canceled.

10 ~~(4)~~(5) If the member dies after retirement and within 30 days from the date that the member's written
11 application electing or changing an election of an optional retirement benefit under subsection (2) is received by
12 the board, then the election is void.

13 (6) After the member or designated beneficiary has received and accepted an initial retirement benefit
14 payment, the member may not change the selected option except as provided in subsection (7).

15 ~~(5)~~(7) A retired member receiving an optional retirement benefit pursuant to subsection ~~(1)(a)~~ ~~(2)(a)~~ or
16 ~~(1)(b)~~ ~~(2)(b)~~ may file a written application with the board to have the member's optional retirement benefit revert
17 to the regular retirement benefit available at the time of the member's retirement if:

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

20 (b) the member's marriage to the original contingent annuitant has been dissolved and the original
21 contingent annuitant has not been granted the right to receive the optional retirement benefit as part of a family
22 law order, as defined in 19-2-907. The benefit must then revert effective on the first day of the month following
23 receipt of the written application and verification that the family law order does not grant the optional benefit to
24 the original contingent annuitant.

25 ~~(6)~~(8) A member who applies to revert under subsection ~~(5)~~ ~~(7)~~ shall, at the time of the application,
26 choose one of the following alternatives:

27 (a) revert to the member's original option 1 retirement benefit, increased by the amount of any
28 adjustments received by the member since the effective date of the member's retirement;

29 (b) retain the same option 2 or option 3 originally selected but name a new contingent annuitant; or

30 (c) select a different option under subsection (2) and name a new contingent annuitant.

1 ~~(7)~~(9) If the member selects an alternative under subsection ~~(6)(b)~~ (8)(b) or ~~(6)(c)~~ (8)(c), the member's
 2 retirement benefit must be calculated based on the member's and the new contingent annuitant's ages at the time
 3 of this election.

4 ~~(8)~~(10) A written application pursuant to subsection ~~(5)~~ (7) must be filed with the board within 18 months
 5 of the death of or dissolution of marriage to the contingent annuitant."
 6

7 **Section 15.** Section 19-3-2133, MCA, is amended to read:

8 **"19-3-2133. Employee investment advisory council.** (1) The board shall create an employee
 9 investment advisory council. The advisory council shall meet at least four times a year to:

10 (a) advise the board concerning the operation of the defined contribution plan, including the selection
 11 of the initial investment alternatives to be provided pursuant to 19-3-2122;

12 (b) advise the board about negotiating, contracting, or modifying services for the state deferred
 13 compensation plan provided for in chapter 50; and

14 (c) review existing deferred compensation plans and to advise the board on the administration of the
 15 program.

16 (2) The advisory council is not subject to 2-15-122, except for payment of travel expenses."
 17

18 **Section 16.** Section 19-3-2141, MCA, is amended to read:

19 **"19-3-2141. Long-term disability plan -- benefit amount -- eligibility -- administration and**
 20 **rulemaking.** (1) For members hired prior to July 1, 2011:

21 (a) except as provided in subsection (1)(b), a disabled member eligible under the provisions of this
 22 section is entitled to a disability benefit equal to one fifty-sixth of the member's highest average compensation,
 23 as defined in 19-3-108, multiplied by the member's years of service credit, including any service credit purchased
 24 under 19-3-513;

25 (b) an eligible member with at least 25 years of membership service is entitled to a disability benefit equal
 26 to 2% of the member's highest average compensation, as defined in 19-3-108, multiplied by the member's years
 27 of service credit, including any service credit purchased under 19-3-513.

28 (2) For members hired on or after July 1, 2011, the monthly disability benefit payable to a disabled
 29 member eligible under the provisions of this section who has:

30 (a) more than 5 but less than 10 years of membership service is equal to 1.5% of the member's highest

1 average compensation multiplied by the member's years of service credit, including any additional service credit
2 purchased under 19-3-513;

3 (b) 10 or more but less than 30 years of membership service is equal to one fifty-sixth of the member's
4 highest average compensation multiplied by the member's years of service credit, including any additional service
5 credit purchased under 19-3-513; or

6 (c) 30 or more years of membership service is equal to 2% of the member's highest average
7 compensation multiplied by the member's years of service credit, including any additional service credit
8 purchased under 19-3-513.

9 (3) Payment of the disability benefit provided in this section is subject to the following:

10 (a) the member must be vested in the plan as provided in 19-3-2116;

11 (b) for members hired prior to July 1, 2011:

12 (i) if the member's disability occurred when the member was 60 years of age or less, the benefit may
13 be paid only until the member reaches 65 years of age; and

14 (ii) if the member's disability occurred after the member reached 60 years of age, the benefit may be paid
15 for no more than 5 years;

16 (c) for members hired on or after July 1, 2011:

17 (i) if the member's disability occurred when the member was less than 65 years of age, the benefit may
18 be paid only until the member reaches 65 years of age; and

19 (ii) if the member's disability occurred after the member reached 65 years of age, the benefit may be paid
20 for no more than 5 years; and

21 (d) the member shall satisfy the other applicable requirements of this section and the board's rules
22 adopted to implement this section.

23 (4) Application for a disability benefit must be made in accordance with ~~19-3-1005~~ 19-2-406.

24 (5) The board shall make determinations on disability claims and conduct medical reviews in a manner
25 consistent with the provisions of 19-2-406 and 19-3-1015. A member may seek review of a board determination
26 as provided in rules adopted by the board.

27 (6) If a member receiving a disability benefit under this section dies, the disability benefit payments cease
28 and the member's beneficiary is entitled to death benefits only as provided for in 19-3-2125.

29 (7) The board shall establish a long-term disability plan trust fund from which disability benefit costs
30 pursuant to this section must be paid. The trust fund must be entirely separate and distinct from the defined

1 benefit plan trust fund.

2 (8) The board shall perform the duties, exercise the powers, and adopt reasonable rules to implement
3 the provisions of this section."

4

5 **Section 17.** Section 19-5-601, MCA, is amended to read:

6 **"19-5-601. Disability retirement benefit.** (1) Except as provided in subsections (2) and (3), in the case
7 of the disability of a vested member, a disability retirement benefit must be granted the member in an amount
8 actuarially equivalent to the service retirement benefit standing to the member's credit at the time of the member's
9 disability retirement.

10 (2) Except as provided in subsections (1) and (3), in the case of the disability of a vested or nonvested
11 member, if the disability is a direct result of any service or duty for the Montana judiciary, the member's disability
12 retirement benefit must be the greater of one-half of the member's current salary or one-half of the member's
13 highest average compensation.

14 (3) If the member was retired at the time of becoming disabled, the member must continue to receive
15 the same retirement benefit previously elected."

16

17 **Section 18.** 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, in
20 lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of
21 the original benefit. If the member does not elect an optional retirement benefit pursuant to subsection (2), the
22 member's retirement benefit is known as an option 1 benefit.

23 (2) An optional retirement benefit under this subsection (2) is initially payable during the member's or
24 designated beneficiary's lifetime, with a subsequent benefit, depending on the option selected, to a contingent
25 annuitant as follows:

26 (a) option 2--a continuation of the optional retirement benefit after the death of the initial payee and
27 payable during the lifetime of the named contingent annuitant. This option may be the chosen benefit only if the
28 adjusted age difference between the member or designated beneficiary and the contingent annuitant, other than
29 the member's or designated beneficiary's spouse, is 10 years or less. The adjusted age difference is either:

30 (i) the excess of the age of the member or designated beneficiary over the age of the nonspouse

1 contingent annuitant based on their ages on their birthdays in a calendar year; or

2 (ii) if the member or designated beneficiary is under 70 years of age, the age difference determined in
3 subsection ~~(1)(a)(i)~~ (2)(a)(i) reduced by the number of years that the member or designated beneficiary is under
4 70 years of age on the member's or beneficiary's birthday in the calendar year that contains the benefit starting
5 date.

6 (b) option 3--a continuation of one-half of the optional retirement benefit after the death of the initial
7 payee and payable during the lifetime of the named contingent annuitant;

8 (c) option 4--a continuation of the optional retirement benefit to one or more contingent annuitants in the
9 event of the initial payee's death before the end of a period certain, determined as follows:

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

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

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

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

16 (iii) if all surviving contingent annuitants die prior to the end of the period certain and the last remaining
17 contingent annuitant has failed to name a designated beneficiary, the remaining payments must be converted
18 to an equivalent lump-sum amount and paid to the estate of the last surviving contingent annuitant.

19 ~~(2)(3)~~ The member or designated beneficiary who elects an optional retirement benefit under subsection
20 (2) shall file a written application with the board prior to the first payment of the benefit. A contingent annuitant
21 must be identified on the application.

22 ~~(3)(4)~~ If the member or designated beneficiary or the named contingent annuitant dies before the first
23 payment has been made under option 2 or 3, the election of the option is automatically canceled.

24 ~~(4)(5)~~ If the member dies after retirement and within 30 days from the date that the member's written
25 application electing or changing an election of an optional retirement benefit under subsection (2) is received by
26 the board, the election is void.

27 (6) After the member or designated beneficiary has received and accepted an initial retirement benefit
28 payment, the member may not change the selected option except as provided in subsection (7).

29 ~~(5)(7)~~ A retired member receiving an optional retirement benefit pursuant to subsection ~~(1)(a)~~ (2)(a) or
30 ~~(1)(b)~~ (2)(b) may file a written application with the board to have the member's optional retirement benefit revert

1 to the regular retirement benefit available at the time of the member's retirement if:

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

4 (b) the member's marriage to the original contingent annuitant has been dissolved and the original
5 contingent annuitant has not been granted the right to receive the optional retirement benefit as part of a family
6 law order, as defined in 19-2-907. The benefit must then revert effective on the first day of the month following
7 receipt of the written application and verification that the family law order does not grant the optional benefit to
8 the original contingent annuitant.

9 ~~(6)~~(8) A member who applies to revert under subsection ~~(5)~~ (7) shall, at the time of the application,
10 choose one of the following alternatives:

11 (a) revert to the member's original option 1 retirement benefit, increased by the amount of any
12 adjustments received by the member since the effective date of the member's retirement;

13 (b) retain the same option 2 or option 3 originally selected but name a new contingent annuitant; or

14 (c) select a different option under subsection (2) and name a new contingent annuitant.

15 ~~(7)~~(9) If the member selects an alternative under subsection ~~(6)~~~~(b)~~ (8)~~(b)~~ or ~~(6)~~~~(e)~~ (8)~~(c)~~, the member's
16 retirement benefit must be calculated based on the member's and the new contingent annuitant's ages at the time
17 of this election.

18 ~~(8)~~(10) A written application pursuant to subsection ~~(5)~~ (7) must be filed with the board within 18 months
19 of the death of or dissolution of marriage to the contingent annuitant."
20

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

22 **"19-5-801. Payments upon employment-related death.** (1) Except as provided in subsection (3), if
23 the board finds that a member died as a direct and proximate result of injury received in the course of the
24 member's service or duty, a survivorship benefit must be paid to the member's designated beneficiary.

25 (2) The survivorship benefit is the member's service retirement benefit standing to the member's credit
26 on the date of death.

27 (3) If the member was retired at the time of death, the provisions of 19-5-701 and 19-5-802(2) through
28 (4) apply."
29

30 **Section 20.** Section 19-5-802, MCA, is amended to read:

1 **"19-5-802. Payments in case of upon death from other causes than employment-related cause.**

2 (1) If an active vested member dies before reaching normal retirement age, the member's designated beneficiary
 3 is entitled to a monthly survivorship benefit that is the actuarial equivalent of the retirement benefit provided in
 4 19-5-502.

5 (2) When a retired member not covered under 19-5-901 and receiving an option 1 retirement under
 6 19-5-701 dies without designating a contingent annuitant under 19-5-701(2), the member's designated beneficiary
 7 must be paid the amount, if any, of the member's accumulated contributions calculated as of the day of the
 8 member's retirement minus the total of any retirement benefits already paid from the member's account. At the
 9 designated beneficiary's request, the lump sum may be paid as an actuarially equivalent annuity that will not be
 10 subject to increases for any purpose.

11 ~~(2)(3) If~~ When a retired member covered under 19-5-901 and receiving an option 1 retirement benefit
 12 under 19-5-701 dies without designating a contingent annuitant under 19-5-701(2), the member's designated
 13 beneficiary must be paid the amount, if any, of the member's accumulated contributions calculated as of the day
 14 of the member's retirement minus the total of any retirement benefits already paid from the member's account.

15 ~~———— (3) If a vested member dies before reaching normal retirement age, the member's designated beneficiary~~
 16 ~~is entitled to a monthly survivorship benefit that is the actuarial equivalent of the involuntary retirement benefit~~
 17 ~~provided in 19-5-503.~~

18 (4) If a retired member who elected an option 2 or 3 benefit under 19-5-701 dies with no surviving
 19 contingent annuitant, the member's estate must be paid the amount, if any, of the member's accumulated
 20 contributions calculated as of the day of the member's retirement minus the total of any retirement benefits
 21 already paid from the member's account.

22 (5) This section does not apply if the member was receiving a disability benefit."

23

24 **Section 21.** Section 19-6-601, MCA, is amended to read:

25 **"19-6-601. Disability retirement benefit.** (1) Except as provided in subsections (2) and (3), a vested
 26 member who becomes disabled must be granted a disability retirement benefit that is the actuarial equivalent of
 27 the service retirement benefit under 19-6-502 standing to the member's credit at the time of the member's
 28 disability retirement.

29 (2) Except as provided in subsections (1) and (3), a vested or nonvested member who becomes
 30 disabled as a direct result of the member's service in the line of duty:

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

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

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

7

8 **Section 22.** Section 19-7-503, MCA, is amended to read:

9 **"19-7-503. Service retirement benefit.** (1) The amount of any service retirement benefit granted to a
10 member is 2.5% of the member's highest average compensation for each year of service credit.

11 (2) When a retired member receiving an option 1 retirement benefit under 19-7-1001 dies, the member's
12 designated beneficiary or, if there is no surviving designated beneficiary, the member's estate must be paid the
13 amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement
14 minus the total of any retirement benefits already paid from the member's account.

15 (2)(3) If a retired member dies without designating a contingent annuitant under 19-7-1001 who elected
16 an option 2 or 3 benefit under 19-7-1001 dies with no surviving contingent annuitant, the member's designated
17 beneficiary estate must be paid the amount, if any, of the member's accumulated contributions calculated as of
18 the day of the member's retirement minus the total of any retirement benefits already paid from the member's
19 account.

20 (4) This section does not apply if the member was receiving a disability benefit."

21

22 **Section 23.** Section 19-7-601, MCA, is amended to read:

23 **"19-7-601. Disability retirement benefit.** (1) A Except as provided in subsection (2), a vested member
24 who becomes disabled must be granted a disability retirement benefit that is the actuarial equivalent of the
25 service retirement benefit under 19-7-503 standing to the member's credit at the time of the member's disability
26 retirement.

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

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

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

3

4 **Section 24.** Section 19-7-901, MCA, is amended to read:

5 **"19-7-901. Payments in case of death before retirement.** If a member dies before retirement, the
6 member's designated beneficiary may elect one of the following options for which the member qualified and for
7 which the designated beneficiary qualifies:

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

10 (2) a survivorship benefit equal to 2.5% of the member's highest average compensation for each year
11 of service credit actuarially reduced from age ~~65~~ 60 or the date on which the member would have completed 20
12 years of membership service, whichever provides a larger retirement benefit; or

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

16

17 **Section 25.** Section 19-7-1001, MCA, is amended to read:

18 **"19-7-1001. 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, in
20 lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of
21 the original benefit. If the member does not elect an optional retirement benefit pursuant to subsection (2), the
22 member's retirement benefit is known as an option 1 benefit.

23 (2) An optional retirement benefit under this subsection (2) is initially payable during the member's or
24 designated beneficiary's lifetime with a subsequent benefit, depending on the option selected, to a contingent
25 annuitant, as follows:

26 (a) option 2--a continuation of the optional retirement benefit after the death of the initial payee and
27 payable during the lifetime of the named contingent annuitant. This option may be the chosen benefit only if the
28 adjusted age difference between the member or designated beneficiary and the contingent annuitant, other than
29 the member's or designated beneficiary's spouse, is 10 years or less. The adjusted age difference is either:

30 (i) the excess of the age of the member or designated beneficiary over the age of the nonspouse

1 contingent annuitant based on their ages on their birthdays in a calendar year; or

2 (ii) if the member or designated beneficiary is under 70 years of age, the age difference determined in
3 subsection ~~(1)(a)(i)~~ (2)(a)(i) reduced by the number of years that the member or designated beneficiary is under
4 70 years of age on the member's or beneficiary's birthday in the calendar year that contains the benefit starting
5 date.

6 (b) option 3--a continuation of one-half of the optional retirement benefit after the death of the initial
7 payee and payable during the lifetime of the named contingent annuitant;

8 (c) option 4--a continuation of the optional retirement benefit to one or more contingent annuitants in the
9 event of the initial payee's death before the end of a period certain, determined as follows:

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

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

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

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

16 (iii) if all surviving contingent annuitants die prior to the end of the period certain and the last remaining
17 contingent annuitant has failed to name a designated beneficiary, the remaining payments must be converted
18 to an equivalent lump-sum amount and paid to the estate of the last surviving contingent annuitant.

19 ~~(2)(3)~~ The member or the designated beneficiary who elects an optional retirement benefit under
20 subsection (2) shall file a written application with the board prior to the first payment of the benefit. A contingent
21 annuitant must be identified on the application.

22 ~~(3)(4)~~ If the member or designated beneficiary or the named contingent annuitant dies before the first
23 payment has been made under option 2 or 3, the election of the option is automatically canceled.

24 ~~(4)(5)~~ If the member dies after retirement and within 30 days from the date that the member's written
25 application electing or changing an election of an optional retirement benefit under subsection (2) is received by
26 the board, the election is void.

27 (6) After the member or designated beneficiary has received and accepted an initial retirement benefit
28 payment, the member may not change the selected option except as provided in subsection (7).

29 ~~(5)(7)~~ A retired member receiving an optional retirement benefit pursuant to subsection ~~(1)(a)~~ (2)(a) or
30 ~~(1)(b)~~ (2)(b) may file a written application with the board to have the member's optional retirement benefit revert

1 to the regular retirement benefit available at the time of the member's retirement if:

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

4 (b) the member's marriage to the original contingent annuitant has been dissolved and the original
5 contingent annuitant has not been granted the right to receive the optional retirement benefit as part of a family
6 law order, as defined in 19-2-907. The benefit must revert effective on the first day of the month following receipt
7 of the written application and verification that the family law order does not grant the optional benefit to the
8 contingent annuitant.

9 ~~(6)~~(8) A member who applies to revert under subsection ~~(5)~~ (7) shall, at the time of the application,
10 choose one of the following alternatives:

11 (a) revert to the member's original option 1 retirement benefit, increased by the amount of any
12 adjustments received by the member since the effective date of the member's retirement;

13 (b) retain the same option 2 or option 3 originally selected but name a new contingent annuitant; or

14 (c) select a different option under subsection (2) and name a new contingent annuitant.

15 ~~(7)~~(9) If the member selects an alternative under subsection ~~(6)~~(b) ~~(8)~~(b) or ~~(6)~~(e) ~~(8)~~(c), the member's
16 retirement benefit must be calculated based on the member's and the new contingent annuitant's ages at the time
17 of the election.

18 ~~(8)~~(10) A written application pursuant to subsection ~~(5)~~ (7) must be filed with the board within 18 months
19 of the death of or dissolution of marriage to the contingent annuitant."

20

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

22 **"19-8-302. Public employees' retirement system -- transfer of membership.** (1) Except as provided
23 in subsection (3), an eligible peace officer must become a member of the game wardens' and peace officers'
24 retirement system on the first day of service.

25 (2) A person who is a member of the game wardens' and peace officers' retirement system assigned
26 to law enforcement who transfers to a position involving duties other than law enforcement within the same state
27 agency may retain membership in the game wardens' and peace officers' retirement system by filing a written
28 election with the board no later than ~~30~~ 90 days after transfer to the new position.

29 (3) A person who is a member of the public employees' retirement system who transfers to a position
30 covered by the game wardens' and peace officers' retirement system may elect to become a member of the

1 retirement system or may continue membership in the public employees' retirement system by filing a written
 2 election with the board no later than ~~30~~ 90 days after transfer to the new position."

3

4 **Section 27.** Section 19-8-701, MCA, is amended to read:

5 **"19-8-701. Disability retirement benefit.** (1) ~~A~~ Except as provided in subsection (2), a vested member
 6 who becomes disabled must be granted a disability retirement benefit that is the actuarial equivalent of the
 7 service retirement benefit under 19-8-603 standing to the member's credit at the time of the member's disability
 8 retirement.

9 (2) A vested member ~~who has at least 5 years of membership service and~~ who becomes disabled as
 10 a direct result of the member's service in the line of duty:

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

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

15

16 **Section 28.** Section 19-8-801, MCA, is amended to read:

17 **"19-8-801. Optional forms of benefits -- designation of contingent annuitant.** (1) The retirement
 18 benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted, in
 19 lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of
 20 the original benefit. If the member does not elect an optional retirement benefit pursuant to subsection (2), the
 21 member's retirement benefit is known as an option 1 benefit.

22 (2) An optional retirement benefit under this subsection (2) is initially payable during the member's or
 23 designated beneficiary's lifetime with a subsequent benefit, depending on the option selected, to a contingent
 24 annuitant as follows:

25 (a) option 2--a continuation of the optional retirement benefit after the death of the initial payee and
 26 payable during the lifetime of the named contingent annuitant. This option may be the chosen benefit only if the
 27 adjusted age difference between the member or designated beneficiary and the contingent annuitant, other than
 28 the member's or designated beneficiary's spouse, is 10 years or less. The adjusted age difference is either:

29 (i) the excess of the age of the member or designated beneficiary over the age of the nonspouse
 30 contingent annuitant based on their ages on their birthdays in a calendar year; or

1 (ii) if the member or designated beneficiary is under 70 years of age, the age difference determined in
 2 subsection ~~(1)(a)(i)~~ (2)(a)(i) reduced by the number of years that the member or designated beneficiary is under
 3 70 years of age on the member's or beneficiary's birthday in the calendar year that contains the benefit starting
 4 date.

5 (b) option 3--a continuation of one-half of the optional retirement benefit after the death of the initial
 6 payee and payable during the lifetime of the named contingent annuitant;

7 (c) option 4--a continuation of the optional retirement benefit to one or more contingent annuitants in the
 8 event of the initial payee's death before the end of a period certain, determined as follows:

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

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

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

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

15 (iii) if all surviving contingent annuitants die prior to the end of the period certain and the last remaining
 16 contingent annuitant has failed to name a designated beneficiary, the remaining payments must be converted
 17 to an equivalent lump-sum amount and paid to the estate of the last surviving contingent annuitant.

18 ~~(2)(3)~~ The member or the designated beneficiary who elects an optional retirement benefit under
 19 subsection (2) shall file a written application with the board prior to the first payment of the benefit. A contingent
 20 annuitant must be identified on the application.

21 ~~(3)(4)~~ If the member or designated beneficiary or the named contingent annuitant dies before the first
 22 payment has been made under option 2 or 3, the election of the option is automatically canceled.

23 ~~(4)(5)~~ If the member dies after retirement and within 30 days from the date that the member's written
 24 application electing or changing an election of an optional retirement benefit under subsection (2) is received by
 25 the board, the election is void.

26 (6) After the member or designated beneficiary has received and accepted an initial retirement benefit
 27 payment, the member may not change the selected option except as provided in subsection (7).

28 ~~(5)(7)~~ A retired member receiving an optional retirement benefit pursuant to subsection ~~(1)(a)~~ (2)(a) or
 29 ~~(1)(b)~~ (2)(b) may file a written application with the board to have the member's optional retirement benefit revert
 30 to the regular retirement benefit available at the time of the member's retirement if:

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

3 (b) the member's marriage to the original contingent annuitant has been dissolved and the original
4 contingent annuitant has not been granted the right to receive the optional retirement benefit as part of a family
5 law order, as defined in 19-2-907. The benefit must then revert effective on the first day of the month following
6 receipt of the written application and verification that the family law order does not grant the optional benefit to
7 the original contingent annuitant.

8 ~~(6)~~(8) A member who applies to revert under subsection ~~(5)~~ (7) shall, at the time of the application,
9 choose one of the following alternatives:

10 (a) revert to the member's original option 1 retirement benefit, increased by the amount of any
11 adjustments received by the member since the effective date of the member's retirement;

12 (b) retain the same option 2 or option 3 originally selected but name a new contingent annuitant; or

13 (c) select a different option under subsection (2) and name a new contingent annuitant.

14 ~~(7)~~(9) If the member selects an alternative under subsection ~~(6)~~(b) ~~(8)~~(b) or ~~(6)~~(e) ~~(8)~~(c), the member's
15 retirement benefit must be calculated based on the member's and the new contingent annuitant's ages at the time
16 of the election.

17 ~~(8)~~(10) A written application pursuant to subsection ~~(5)~~ (7) must be filed with the board within 18 months
18 of the death of or dissolution of marriage to the contingent annuitant."

19

20 **Section 29.** Section 19-8-1002, MCA, is amended to read:

21 **"19-8-1002. Postretirement death payments.** (1) When a retired member receiving an option 1
22 retirement benefit under 19-8-801 dies, the member's designated beneficiary or, if there is no surviving
23 designated beneficiary, the member's estate must be paid the amount, if any, of the member's accumulated
24 contributions calculated as of the day of the member's retirement minus the total of any retirement benefits
25 already paid from the member's account.

26 (2) If a retired member who ~~retires on or after July 1, 1997, dies without designating a contingent~~
27 ~~annuitant~~ elects an option 2 or 3 retirement benefit under 19-8-801 dies with no surviving contingent annuitant,
28 the member's ~~designated beneficiary~~ estate must be paid the amount, if any, of the member's accumulated
29 contributions calculated as of the day of the member's retirement minus the total of any retirement benefits
30 already paid from the member's account.

1 ~~(3) This section does not apply if the member was receiving a disability benefit.~~"

2

3 **Section 30.** Section 19-9-710, MCA, is amended to read:

4 **"19-9-710. Member's contribution.** (1) Except as provided in subsection (2), the regular contribution
5 as a percentage of compensation of each active member first employed by an employer as a police officer:

6 ~~—— (a) on or before June 30, 1975, is 5.8%;~~

7 ~~(b)(a)~~ after June 30, 1975, but before July 1, 1979, is 7%;

8 ~~(e)(b)~~ after June 30, 1979, but before July 1, 1997, is 8.5%; and

9 ~~(d)(c)~~ on and after July 1, 1997, is 9%.

10 (2) A member covered under 19-9-1009, ~~or 19-9-1010, or 19-9-1013~~ shall contribute 9% of the member's
11 compensation.

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

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

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

24

25 **Section 31.** Section 19-9-1007, MCA, is amended to read:

26 **"19-9-1007. Minimum benefit adjustment.** (1) The benefits that are paid in each fiscal year to a retired
27 member or the member's survivors and that are not covered by 19-9-1009 may not be less than one-half of the
28 compensation that will be paid to newly confirmed police officers in the current fiscal year in the city or town from
29 which the member retired.

30 (2) If the compensation of a ~~newly confirmed~~ new police officer who has been confirmed pursuant to

1 7-32-4113 has not been set for the current fiscal year in time to make minimum benefit adjustments effective July
 2 1, the board shall make any retroactive adjustments necessary to individual minimum benefits after the current
 3 compensation has been determined.

4 (3) If more than one dependent child is entitled to benefits under this section by virtue of the death of a
 5 common parent, the minimum benefit paid to the dependent children under this section must be determined as
 6 if there were one dependent child and the benefits must be paid to the dependent children collectively."

7

8 **Section 32.** Section 19-13-104, MCA, is amended to read:

9 **"19-13-104. Definitions.** Unless the context requires otherwise, the following definitions apply in this
 10 chapter:

11 (1) Any reference to "city" or "town" includes those jurisdictions that, before the effective date of a
 12 county-municipal consolidation, were incorporated municipalities, subsequent districts created for urban
 13 firefighting services, or the entire county included in the county-municipal consolidation.

14 (2) "Compensation" means:

15 (a) for a full-paid firefighter, the remuneration paid from funds controlled by an employer in payment for
 16 the member's services before any pretax deductions allowed by state and federal law are made;

17 (b) for a part-paid firefighter employed by a city of the second class:

18 (i) 15% of the regular remuneration, excluding overtime, holiday payments, shift differential payments,
 19 compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year to a newly
 20 confirmed, full-paid firefighter of the city that employs the part-paid firefighter; or

21 (ii) if that city does not employ a full-paid firefighter, 15% of the average regular remuneration, excluding
 22 overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of
 23 sick leave, paid on July 1 of each year to all newly confirmed, full-paid firefighters employed by cities of the
 24 second class.

25 (c) Compensation for full-paid and part-paid firefighters does not include:

26 (i) overtime, holiday payments, shift differential payments, compensatory time payments, and payments
 27 in lieu of sick leave; and

28 (ii) maintenance, allowances, and expenses.

29 (3) "Dependent child" means a child of a deceased member who is:

30 (a) unmarried and under 18 years of age; or

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

3 (4) "Employer" means:

4 (a) any city that is of the first or second class or that elects to join this retirement system under 19-13-211;

5 (b) a city or a rural fire district referred to in 19-13-210(3);

6 (c) with respect to firefighters covered in the retirement system pursuant to 19-13-210(2), the department
7 of military affairs established in 2-15-1201; and

8 (d) any other statutorily allowed entity that elects to join this retirement system pursuant to 19-13-210.

9 (5) "Firefighter" means a person employed as a full-paid or part-paid firefighter by an employer.

10 (6) "Full-paid firefighter" means a person appointed pursuant to 7-33-4106 by an employer as a firefighter
11 ~~under meeting~~ the standards provided in ~~7-33-4106 and~~ 7-33-4107.

12 (7) "Highest average compensation" means the monthly compensation of a member averaged over the
13 highest consecutive 36 months of the member's active service or, in the event a member has not served at least
14 36 consecutive months, the total compensation earned divided by the number of months of service. Lump-sum
15 payments for annual leave paid to the member upon termination of employment may be used to replace, on a
16 month-for-month basis, the regular compensation for a month or months included in the calculation of highest
17 average compensation.

18 (8) "Minimum retirement date" means the first day of the month coinciding with or immediately following,
19 if none coincides, the date on which a member reaches both 50 years of age or older and completes 5 or more
20 years of membership service.

21 (9) "Newly confirmed firefighter" means a new member of a fire department appointed pursuant to
22 7-33-4106 and meeting the standards of 7-33-4107.

23 ~~(9)(10)~~ "Part-paid firefighter" means a person other than a full-paid firefighter employed under 7-33-4109
24 by a second class city who receives compensation in excess of \$300 a year for service as a firefighter and who
25 is appointed by an employer as a firefighter under the standards provided in 7-33-4106 and 7-33-4107.

26 ~~(10)(11)~~ "Prior plan" means the fire department relief association plan of a city that elects to join the
27 retirement system under 19-13-211 or the fire department relief association plan of a city of the first or second
28 class.

29 ~~(11)(12)~~ "Retirement date" means the date on which the first payment of benefits is payable.

30 ~~(12)(13)~~ "Retirement system" means the firefighters' unified retirement system provided for in this chapter.

