

1 HOUSE BILL NO. 338

2 INTRODUCED BY K. REGIER

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PUBLIC EMPLOYEE RETIREMENT LAWS; REQUIRING
5 THAT ALL NEW PUBLIC EMPLOYEES OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, JUDGES'
6 RETIREMENT SYSTEM, HIGHWAY PATROL OFFICERS' RETIREMENT SYSTEM, SHERIFFS' RETIREMENT
7 SYSTEM, GAME WARDENS' AND PEACE OFFICERS' RETIREMENT SYSTEM, MUNICIPAL POLICE
8 OFFICERS' RETIREMENT SYSTEM, FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM, OR TEACHERS'
9 RETIREMENT SYSTEM AND VOLUNTEERS UNDER THE VOLUNTEER FIREFIGHTERS' COMPENSATION
10 ACT BECOME MEMBERS OF A STATEWIDE DEFINED CONTRIBUTION RETIREMENT PLAN; REVISING
11 MEMBERSHIP AND DUTIES OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD; TEMPORARILY
12 INCREASING EMPLOYEE CONTRIBUTION RATES FOR CURRENT MEMBERS OF THE PUBLIC
13 EMPLOYEES', HIGHWAY PATROL OFFICERS', SHERIFFS', GAME WARDENS' AND PEACE OFFICERS',
14 AND TEACHERS' RETIREMENT SYSTEMS; SUSPENDING GUARANTEED ANNUAL BENEFIT
15 ADJUSTMENTS EXCEPT IN THE JUDGES' RETIREMENT SYSTEM; REVISING EMPLOYEE AND EMPLOYER
16 CONTRIBUTION RATES AND THE ALLOCATION OF CONTRIBUTIONS WITHIN THE STATEWIDE DEFINED
17 CONTRIBUTION PLAN; REVISING THE DUTIES OF THE LEGISLATIVE FINANCE COMMITTEE, STATE
18 ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE, AND REVENUE AND
19 TRANSPORTATION INTERIM COMMITTEE; PROVIDING STATUTORY APPROPRIATIONS FROM COAL
20 SEVERANCE TAX REVENUE AND THE GENERAL FUND TO PAY DEFINED BENEFIT RETIREMENT
21 SYSTEM UNFUNDED LIABILITIES; REQUIRING ACTUARIAL REPORTS TO INCLUDE A PROJECTION OF
22 THE DOLLAR AMOUNT THAT SHOULD BE ANNUALLY APPROPRIATED TO PAY OFF DEFINED BENEFIT
23 RETIREMENT SYSTEM UNFUNDED LIABILITIES BY A SPECIFIED DATE; AMENDING SECTIONS 2-15-1009,
24 5-5-227, 5-5-228, 5-12-205, 7-32-4132, 15-35-108, 17-7-502, 19-2-302, 19-2-303, 19-2-405, 19-2-407, 19-2-408,
25 19-2-715, 19-2-1004, 19-3-103, 19-3-112, 19-3-201, 19-3-203, 19-3-315, 19-3-316, 19-3-319, 19-3-401,
26 19-3-412, 19-3-1605, 19-3-2101, 19-3-2102, 19-3-2106, 19-3-2111, 19-3-2112, 19-3-2114, 19-3-2115, 19-3-2116,
27 19-3-2126, 19-3-2141, 19-5-301, ~~19-5-901, 19-5-902~~, 19-6-301, 19-6-402, 19-6-710, 19-6-711, 19-7-301,
28 19-7-403, 19-7-711, 19-7-801, 19-8-301, 19-8-302, 19-8-502, 19-8-1105, 19-9-207, 19-9-301, 19-9-1009,
29 19-9-1010, 19-9-1013, 19-13-210, 19-13-211, 19-13-301, 19-13-1010, 19-13-1011, 19-17-102, 19-17-301,
30 19-20-201, 19-20-302, 19-20-417, 19-20-602, 19-20-719, 19-21-214, 20-9-501, 25-13-608, AND 44-1-518, MCA;

1 REPEALING SECTIONS 19-3-202, 19-3-522, 19-3-909, 19-3-1016, 19-3-1112, 19-3-1212, 19-3-1502, 19-3-1607,
2 19-3-2103, 19-3-2113, 19-3-2117, 19-3-2121, AND 19-17-205, MCA; AND PROVIDING EFFECTIVE DATES."

3

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

5

6 **Section 1.** Section 2-15-1009, MCA, is amended to read:

7 **"2-15-1009. Public employees' retirement board -- terms -- allocation.** (1) There is a public
8 employees' retirement board.

9 (2) The board consists of ~~seven~~ eleven members appointed by the governor with the consent of the
10 senate. The members are:

11 (a) three public employees who are active members of a public retirement system. Not more than one
12 of these members may be an employee of the same department and at least one of these members must, no later
13 than July 1, 2003, be a member of the defined contribution plan created pursuant to Title 19, chapter 3, part 21.

14 (b) one retired public employee who is a member of the public employees' retirement system;

15 (c) two members ~~at large~~ who are active or retired public safety officers and, if possible, covered under
16 the defined contribution plan established in 19-3-2102; and

17 (d) one member who has experience in investment management, counseling, or financial planning or
18 who has other similar experience;

19 (e) two members who are teachers and, if possible, active members of the defined contribution plan
20 established in 19-3-2102;

21 (f) one member who is a retired teacher; and

22 (g) one member who is school board member.

23 (3) The term of office for each member is 5 years.

24 (4) (a) The board is allocated to the department for administrative purposes only as prescribed in
25 2-15-121.

26 (b) The board shall hire necessary employees as provided in 19-2-404.

27 (c) Consistent with its constitutional mandate to administer the retirement plans as a fiduciary of system
28 participants and their beneficiaries, the board shall appoint its own existing attorney in lieu of the person
29 appointed by the department, as provided for in 2-4-110, to have sole responsibility for the legal review of each
30 board rule proposal notice, adoption notice, or other notice related to administrative rulemaking.

1 (5) Members of the board must be compensated and receive travel expenses as provided for in
2 2-15-124."

3

4 **Section 2.** Section 5-5-227, MCA, is amended to read:

5 **"5-5-227. Revenue and transportation interim committee -- powers and duties -- revenue**
6 **estimating and use of estimates.** (1) The revenue and transportation interim committee has administrative rule
7 review, draft legislation review, program evaluation, and monitoring functions for the department of revenue and
8 the department of transportation and the entities attached to the departments for administrative purposes.

9 (2) (a) The committee must have prepared by December 1 for introduction during each regular session
10 of the legislature in which a revenue bill is under consideration an estimate of the amount of revenue projected
11 to be available for legislative appropriation.

12 (b) The committee may prepare for introduction during a special session of the legislature in which a
13 revenue bill or an appropriation bill is under consideration an estimate of the amount of projected revenue. The
14 revenue estimate is considered a subject specified in the call of a special session under 5-3-101.

15 (3) The committee's estimate, as introduced in the legislature, constitutes the legislature's current
16 revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that the
17 legislature's estimates and the assumptions underlying the estimates will be used by all agencies with
18 responsibilities for estimating revenue or costs, including the preparation of fiscal notes.

19 (4) The committee shall develop and share information concerning the coal severance tax revenue
20 allocated to the public employee retirement systems pursuant 15-35-108 as requested by the legislative finance
21 committee for the purposes of 5-12-205(8).

22 ~~(4)~~(5) The legislative services division shall provide staff assistance to the committee. The committee
23 may request the assistance of the staffs of the office of the legislative fiscal analyst, the legislative auditor, the
24 department of revenue, and any other agency that has information regarding any of the tax or revenue bases of
25 the state."

26

27 **Section 3.** Section 5-5-228, MCA, is amended to read:

28 **"5-5-228. State administration and veterans' affairs interim committee.** (1) The state administration
29 and veterans' affairs interim committee has administrative rule review, draft legislation review, program
30 evaluation, and monitoring functions for the public employee retirement plans and for the following executive

1 branch agencies and, unless otherwise assigned by law, the entities attached to the agencies for administrative
2 purposes:

3 (a) department of administration, except:

4 (i) the state compensation insurance fund provided for in 39-71-2313, including the board of directors
5 of the state compensation insurance fund established in 2-15-1019; and

6 (ii) the office of state public defender;

7 (b) department of military affairs; and

8 (c) office of the secretary of state.

9 (2) The committee shall:

10 (a) consider the actuarial and fiscal soundness of the state's public employee retirement systems, based
11 on reports from the teachers' retirement board, the public employees' retirement board, and the board of
12 investments, and study and evaluate the equity and benefit structure of the state's public employee retirement
13 systems;

14 (b) establish principles of sound fiscal and public policy as guidelines;

15 (c) as necessary, develop legislation to keep the retirement systems consistent with sound policy
16 principles;

17 (d) solicit and review proposed statutory changes to any of the state's public employee retirement
18 systems;

19 (e) report to the legislature on each legislative proposal reviewed by the committee. The report must
20 include but is not limited to:

21 (i) a summary of the fiscal implications of the proposal;

22 (ii) an analysis of the effect that the proposal may have on other public employee retirement systems;

23 (iii) an analysis of the soundness of the proposal as a matter of public policy;

24 (iv) any amendments proposed by the committee; and

25 (v) the committee's recommendation on whether the proposal should be enacted by the legislature.

26 (f) attach the committee's report to any proposal that the committee considered and that is or has been
27 introduced as a bill during a legislative session; and

28 (g) publish, for legislators' use, information on the state's public employee retirement systems.

29 (3) The committee may:

30 (a) specify the date by which proposals affecting a retirement system must be submitted to the committee

1 for the review contemplated under subsection (2)(d); and

2 (b) request personnel from state agencies, including boards, political subdivisions, and the state public
3 employee retirement systems, to furnish any information and render any assistance that the committee may
4 request.

5 (4) The committee shall provide committee research and policy guidance on the retirement systems and
6 collaborate with the legislative finance committee for the purposes of 5-12-205(9)."

7

8 **Section 4.** Section 5-12-205, MCA, is amended to read:

9 **"5-12-205. Powers and duties of committee.** The committee:

10 (1) may organize, adopt rules to govern its proceedings, and meet as often as necessary, upon the call
11 of the presiding officer, to advise and consult with the legislative fiscal analyst;

12 (2) may employ and, in accordance with the rules for classification and pay adopted by the legislative
13 council, set the salary of the legislative fiscal analyst. The legislative fiscal analyst shall serve at the pleasure of
14 and be responsible for providing services to the committee.

15 (3) may exercise the investigatory powers of a standing committee under chapter 5, part 1, of this title;

16 (4) shall monitor the information technology policies of the department of administration with specific
17 attention to:

18 (a) identification of information technology issues likely to require future legislative attention; and

19 (b) the evaluation of proposed information technology policy changes and the fiscal implications of the
20 proposed changes and shall provide written responses to the department of administration communicating the
21 committee's positions and concerns on proposed policy changes;

22 (5) may accumulate, compile, analyze, and provide information relevant to existing or proposed
23 legislation on how information technology can be used to impact the welfare of the state;

24 (6) may prepare legislation to implement any proposed changes involving information technology; ~~and~~

25 (7) shall, before each regular and special legislative session involving budgetary matters, prepare
26 recommendations to the house appropriations committee and the senate finance and claims committee on the
27 application of certain budget issues. At a minimum, the recommendations must include procedures for the
28 consistent application during each session of inflation factors, the allocation of fixed costs, and the personal
29 services budget. The committee may also make recommendations on other issues of major concern in the
30 budgeting process, such as estimating the cost of implementing particular programs based upon present law.

1 (8) (A) shall examine the statutory appropriations to the public employee retirement systems under
 2 15-35-108 and [section 10] and recommend any legislation necessary to adjust the appropriation amounts to
 3 provide that the systems are 100% funded by July 1, 2043; and

4 (B) SHALL MONITOR THE POTENTIAL FISCAL IMPACTS OF REINSTATING THE GUARANTEED ANNUAL BENEFIT
 5 ADJUSTMENTS PURSUANT TO [SECTION 11] AND 19-20-719(2) AND RECOMMEND ANY LEGISLATION THE COMMITTEE
 6 DETERMINES NECESSARY TO ENSURE THE RETIREMENT SYSTEMS REMAIN ACTUARIALLY SOUND; AND

7 (9) shall coordinate with and request appropriate information from the revenue and transportation interim
 8 committee concerning coal severance tax revenue, collaborate with the state administration and veterans' affairs
 9 interim committee, and request information from the retirement system administrative boards and the board of
 10 investments as appropriate to fulfill its duty under subsection (8)."

11
 12 **Section 5.** Section 7-32-4132, MCA, is amended to read:

13 **"7-32-4132. Payment of partial salary amount of officer injured in performance of duty.** (1) A
 14 member of a municipal law enforcement agency of a municipality ~~contracting~~ who contracted for retirement
 15 coverage pursuant to 19-9-207 or [section 30] who is injured in the performance of the member's duties and who
 16 requires medical or other remedial treatment for injuries that render the member unable to perform the member's
 17 duties must be paid by the municipality the difference between the member's net salary, following adjustments
 18 for income taxes and pension contributions, and the amount received from workers' compensation until the
 19 disability has ceased, as determined by workers' compensation, or for a period not to exceed 1 year, whichever
 20 occurs first.

21 (2) To qualify for the partial salary payment provided for in subsection (1), the member of the law
 22 enforcement agency must be unable to perform the member's duties as a result of the injury."
 23

24 **Section 6.** Section 15-35-108, MCA, is amended to read:

25 ~~"15-35-108. (Temporary) Disposal of severance taxes.~~ Severance taxes collected under this chapter
 26 must, in accordance with the provisions of 17-2-124, be allocated as follows:

27 ~~—— (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX,~~
 28 ~~section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under~~
 29 ~~17-6-203(6) and invested by the board of investments as provided by law.~~

30 ~~—— (2) The amount of 12% of coal severance tax collections is allocated to the long-range building program~~

1 ~~account established in 17-7-205.~~

2 ~~———(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated~~
3 ~~by the legislature for provision of basic library services for the residents of all counties through library federations~~
4 ~~and for payment of the costs of participating in regional and national networking, conservation districts, and the~~
5 ~~Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account.~~
6 ~~Money may not be transferred from this account to another account other than the general fund. Beginning July~~
7 ~~1, 2012, any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.~~

8 ~~———(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks~~
9 ~~acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses,~~
10 ~~must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas~~
11 ~~described in 23-1-102.~~

12 ~~———(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable~~
13 ~~resource loan debt service fund.~~

14 ~~———(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art~~
15 ~~in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding~~
16 ~~unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other~~
17 ~~cultural and aesthetic projects.~~

18 ~~———(7) The amount of 5.8% through September 30, 2013, and beginning October 1, 2013, the amount of~~
19 ~~2.9% must be credited to the coal natural resource account established in 90-6-1001(2).~~

20 ~~———(8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must~~
21 ~~be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.~~

22 ~~———(9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the~~
23 ~~provisions of this chapter must be credited to the general fund of the state.~~

24 ~~———(b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited~~
25 ~~in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:~~

26 ~~———(i) \$65,000 to the cooperative development center;~~

27 ~~———(ii) \$625,000 for the growth through agriculture program provided for in Title 90, chapter 9;~~

28 ~~———(iii) \$1.275 million to the research and commercialization state special revenue account created in~~
29 ~~90-3-1002, of which \$375,000 per year is appropriated for fiscal years 2012 and 2013 to the department of~~
30 ~~commerce for the small business state matching grant program authorized in 90-1-117 to provide matching grants~~

1 for small business innovation research and small business technology transfer, \$125,000 per year is appropriated
 2 for fiscal years 2012 and 2013 to the high-performance supercomputing program in the department of commerce;
 3 and \$300,000 per year is appropriated for fiscal years 2012 and 2013 to the board of regents for the development
 4 of energy and natural resources doctoral programs at Montana tech of the university of Montana;
 5 _____ (iv) to the department of commerce:
 6 _____ (A) \$125,000 for a small business development center;
 7 _____ (B) \$50,000 for a small business innovative research program;
 8 _____ (C) \$425,000 for certified regional development corporations;
 9 _____ (D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman;
 10 and
 11 _____ (E) \$300,000 for export trade enhancement. (Terminates June 30, 2013--sec. 5, Ch. 459, L. 2009.)

12 **15-35-108. (Effective July 1, 2013 (Temporary) Disposal of severance taxes.** Severance taxes
 13 collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

14 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX,
 15 section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under
 16 17-6-203(6) and invested by the board of investments as provided by law.

17 (2) The amount of 42% \$6,329,115 of coal severance tax collections is allocated to the long-range
 18 building program account established in 17-7-205.

19 (3) The amount of 5.46% \$2,879,748 must be credited to an account in the state special revenue fund
 20 to be allocated by the legislature for provision of basic library services for the residents of all counties through
 21 library federations and for payment of the costs of participating in regional and national networking, conservation
 22 districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from
 23 this account. Money may not be transferred from this account to another account other than the general fund.
 24 ~~Beginning July 1, 2012, any~~ Any unreserved fund balance at the end of each fiscal year must be deposited in the
 25 general fund.

26 (4) The amount of 4.27% \$669,831 must be allocated to a permanent fund account for the purpose of
 27 parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and
 28 losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas
 29 described in 23-1-102.

30 (5) The amount of 0.95% \$501,055 must be allocated to the debt service fund type to the credit of the

1 renewable resource loan debt service fund.

2 (6) The amount of ~~0.63%~~ \$332,279 must be allocated to a trust fund for the purpose of protection of
3 works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account,
4 excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and
5 for other cultural and aesthetic projects.

6 (7) The amount of ~~5.8%~~ \$3,059,072 through September 30, 2013, and beginning October 1, 2013, the
7 amount of ~~2.9%~~ \$764,768 must be credited to the coal natural resource account established in 90-6-1001(2).

8 (8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must
9 be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

10 (9) (a) Subject to subsection (9)(b);:

11 (i) all other revenue from severance taxes collected under the provisions of this chapter must be credited
12 to the general fund of the state deposited to the trust funds for the public employees' retirement system provided
13 for in 19-3-103, the highway patrol officers' retirement system provided for in 19-6-102, the sheriffs' retirement
14 system provided for in 19-7-102, the game wardens' and peace officers' retirement system provided for in
15 19-8-102, the municipal police officers' retirement system provided for in 19-9-103, the firefighters' unified
16 retirement system provided for in 19-13-103, and the teachers' retirement system provided for in 19-20-102. The
17 amount of the deposit to each system's trust fund must be proportionate to the system's unfunded liabilities
18 compared to the total unfunded liabilities in all of the systems as of the latest actuarial valuations of the systems.

19 (ii) the amounts deposited to the pension trust funds pursuant to subsection (9)(a)(i) are statutorily
20 appropriated, as provided in 17-7-502, to the pension trust funds.

21 (b) Beginning January 1 following annual actuarial valuations showing that all of the retirement systems
22 listed in subsection (9)(a)(i) are at least 100% funded, the revenue must be credited to the general fund.

23 ~~(b)(c)~~ (c) The interest income from \$140 million of the coal severance tax permanent fund that is deposited
24 in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

25 (i) \$65,000 to the cooperative development center;

26 (ii) \$1.25 million for the growth through agriculture program provided for in Title 90, chapter 9;

27 (iii) \$3.65 million to the research and commercialization state special revenue account created in
28 90-3-1002;

29 (iv) to the department of commerce:

30 (A) \$125,000 for a small business development center;

- 1 (B) \$50,000 for a small business innovative research program;
 2 (C) \$425,000 for certified regional development corporations;
 3 (D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman;

4 and

- 5 (E) \$300,000 for export trade enhancement. (Terminates June 30, 2019--secs. 2, 3, Ch. 459, L. 2009.)

6 **15-35-108. (Effective July 1, 2019) Disposal of severance taxes.** Severance taxes collected under
 7 this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

8 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX,
 9 section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under
 10 17-6-203(6) and invested by the board of investments as provided by law.

11 (2) The amount of ~~42%~~ \$6,329,115 of coal severance tax collections is allocated to the long-range
 12 building program account established in 17-7-205.

13 (3) The amount of ~~5.46%~~ \$2,879,748 must be credited to an account in the state special revenue fund
 14 to be allocated by the legislature for provision of basic library services for the residents of all counties through
 15 library federations and for payment of the costs of participating in regional and national networking, conservation
 16 districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from
 17 this account. Money may not be transferred from this account to another account other than the general fund.
 18 ~~Beginning July 1, 2012, any~~ Any unreserved fund balance at the end of each fiscal year must be deposited in the
 19 general fund.

20 (4) The amount of ~~4.27%~~ \$669,831 must be allocated to a permanent fund account for the purpose of
 21 parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and
 22 losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas
 23 described in 23-1-102.

24 (5) The amount of ~~0.95%~~ \$501,055 must be allocated to the debt service fund type to the credit of the
 25 renewable resource loan debt service fund.

26 (6) The amount of ~~0.63%~~ \$332,279 must be allocated to a trust fund for the purpose of protection of
 27 works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account,
 28 excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and
 29 for other cultural and aesthetic projects.

30 (7) The amount of ~~2.9%~~ \$764,768 must be credited to the coal natural resource account established in

1 90-6-1001(2).

2 (8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must
3 be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

4 (9) (a) Subject to subsection (9)(b):

5 (i) ~~All~~ all other revenue from severance taxes collected under the provisions of this chapter must be
6 credited to the general fund of the state deposited to the trust funds for the public employees' retirement system
7 provided for in 19-3-103, the highway patrol officers' retirement system provided for in 19-6-102, the sheriffs'
8 retirement system provided for in 19-7-102, the game wardens' and peace officers' retirement system provided
9 for in 19-8-102, the municipal police officers' retirement system provided for in 19-9-103, the firefighters' unified
10 retirement system provided for in 19-13-103, and the teachers' retirement system provided for in 19-20-102. The
11 amount of each deposit to each system's trust fund must be proportionate to the system's unfunded liabilities
12 compared to the total unfunded liabilities in all of the systems as of the latest annual actuarial valuations of the
13 systems.

14 (ii) the amounts deposited to the pension trust funds pursuant to subsection (9)(a)(i) are statutorily
15 appropriated, as provided in 17-7-502, to the pension trust funds.

16 (b) Beginning January 1 following annual actuarial valuations showing that all of the retirement systems
17 listed in subsection (9)(a)(i) are at least 100% funded, the revenue must be credited to the general fund."

18

19 **Section 7.** Section 17-7-502, MCA, is amended to read:

20 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
21 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
22 need for a biennial legislative appropriation or budget amendment.

23 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
24 of the following provisions:

25 (a) The law containing the statutory authority must be listed in subsection (3).

26 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
27 appropriation is made as provided in this section.

28 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
29 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312;
30 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121;

1 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101;
 2 18-11-112; section 10, 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305;
 3 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105;
 4 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-71-503; 41-5-2011;
 5 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-9-113; 53-24-108; 53-24-206; 60-11-115;
 6 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-416; 77-1-108; 77-2-362; 80-2-222;
 7 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-230; 87-1-603;
 8 87-1-621; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

9 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 10 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 11 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
 12 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
 13 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
 14 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
 15 of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is
 16 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch.
 17 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 17, Ch. 593, L. 2005, and
 18 sec. 1, Ch. 186, L. 2009, the inclusion of 15-31-906 terminates January 1, 2015; pursuant to sec. 73, Ch. 44, L.
 19 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the
 20 supplemental benefit provided by 19-6-709; pursuant to sec. 8, Ch. 330, L. 2009, the inclusion of 87-1-621
 21 terminates June 30, 2013; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30,
 22 2015; pursuant to sec. 8, Ch. 427, L. 2009, the inclusion of 87-1-230 terminates June 30, 2013; pursuant to sec.
 23 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 47, Ch. 19, L. 2011,
 24 the inclusion of 87-1-621 terminates June 30, 2013; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of
 25 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates
 26 June 30, 2019; and pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates
 27 June 30, 2017.)"

28

29 **Section 8.** Section 19-2-302, MCA, is amended to read:

30 **"19-2-302. Applicability.** Except as otherwise provided in this title, this chapter applies to the provisions

1 and administration of the retirement systems and plans within the systems under chapters 3, 5 through 9, and
2 13, and [sections 27, 30, 32, 33, 39 through 45, and 48] of this title."

3

4 **Section 9.** Section 19-2-303, MCA, is amended to read:

5 **"19-2-303. Definitions.** Unless the context requires otherwise, for each of the retirement systems
6 subject to this chapter, the following definitions apply:

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

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

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

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

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

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

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

22 (8) "Annuity" means:

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

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

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

29 (10) "Benefit" means:

30 (a) the service retirement benefit, early retirement benefit, or disability retirement or survivorship benefit

1 payment provided by a defined benefit retirement plan; or

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

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

6 (12) "Contingent annuitant" means:

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

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

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

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

14 (15) "Defined benefit retirement plan" ~~system~~ or "defined benefit plan" means a ~~plan within the retirement~~
15 ~~systems~~ system provided for pursuant to ~~19-2-302 that is not the defined contribution retirement plan~~ Title 19,
16 chapter 3, 5, 6 through 9, 13, or 17.

17 (16) "Defined contribution retirement plan" or "defined contribution plan" means the retirement plan ~~within~~
18 ~~the public employees' retirement system established in 19-3-103 that is provided for in chapter 3, part 21, of this~~
19 ~~title and that is not a defined benefit plan~~ established in 19-3-2102.

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

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

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

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

- 1 (21) "Distributee" means:
- 2 (a) a member;
- 3 (b) a member's surviving spouse;
- 4 (c) a member's spouse or former spouse who is the alternate payee under a family law order as defined
- 5 in 19-2-907; or
- 6 (d) effective January 1, 2007, a member's nonspouse beneficiary who is a designated beneficiary as
- 7 defined by section 401(a)(9)(E) of the Internal Revenue Code, 26 U.S.C. 401(a)(9)(E).
- 8 (22) "Early retirement benefit" means the retirement benefit payable to a member following early
- 9 retirement and is the actuarial equivalent of the accrued portion of the member's service retirement benefit.
- 10 (23) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover
- 11 distribution:
- 12 (a) an individual retirement account described in section 408(a) of the Internal Revenue Code, 26 U.S.C.
- 13 408(a);
- 14 (b) an individual retirement annuity described in section 408(b) of the Internal Revenue Code, 26 U.S.C.
- 15 408(b);
- 16 (c) an annuity plan described in section 403(a) of the Internal Revenue Code, 26 U.S.C. 403(a);
- 17 (d) a qualified trust described in section 401(a) of the Internal Revenue Code, 26 U.S.C. 401(a);
- 18 (e) effective January 1, 2002, an annuity contract described in section 403(b) of the Internal Revenue
- 19 Code, 26 U.S.C. 403(b);
- 20 (f) effective January 1, 2002, a plan eligible under section 457(b) of the Internal Revenue Code, 26
- 21 U.S.C. 457(b), that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of
- 22 a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan
- 23 from a plan under this title; or
- 24 (g) effective January 1, 2008, a Roth IRA described in section 408A of the Internal Revenue Code, 26
- 25 U.S.C. 408A.
- 26 (24) "Eligible rollover distribution":
- 27 (a) means any distribution of all or any portion of the balance from a retirement plan to the credit of the
- 28 distributee, as provided in 19-2-1011;
- 29 (b) effective January 1, 2002, includes a distribution to a surviving spouse or to a spouse or former
- 30 spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Internal

1 Revenue Code, 26 U.S.C. 414(p).

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

5 (26) "Employer" means a governmental agency participating in a retirement system enumerated in
6 19-2-302 on behalf of its eligible employees. The term includes an interlocal governmental entity identified as
7 responsible for paying retirement contributions pursuant to 7-11-105.

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

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

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

12 (c) the element is highly specialized.

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

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

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

18 (31) "Member" means either:

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

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

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

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

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

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

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

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

5 (37) "Plan choice rate" ~~means the amount of the employer contribution as a percentage of payroll covered~~
6 ~~by the defined contribution plan members that is allocated to the public employees' retirement system's defined~~
7 ~~benefit plan pursuant to 19-3-2117 and that is adjusted by the board pursuant to 19-3-2121 to actuarially fund~~
8 ~~the unfunded liabilities and the normal cost rate changes in a defined benefit plan resulting from member~~
9 ~~selection of the defined contribution plan~~ has the meaning provided in 19-3-2101.

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

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

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

13 (a) terminated from service; and

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

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

18 (42) "Retirement benefit" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 same date.

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

- 5 (a) the member's contribution account;
- 6 (b) the vested portion of the employer's contribution account; and
- 7 (c) the member's account for other contributions.

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

- 9 (a) with respect to a defined benefit plan, a member or the status of a member who has at least 5 years
10 of membership service; or
- 11 (b) with respect to the defined contribution plan, a member or the status of a member who meets the
12 minimum membership service requirement of 19-3-2116.

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

16 (57) "Written instrument" includes an electronic record containing an electronic signature, as defined in
17 30-18-102."

18
19 **NEW SECTION. Section 10. General fund contributions for defined benefit retirement system**
20 **unfunded liabilities -- statutory appropriation -- termination.** (1) Except as provided in subsection (2), the
21 following amounts are statutorily appropriated, as provided in 17-7-502, from the general fund each fiscal year
22 to pay the defined benefit retirement system unfunded liabilities:

- 23 (a) \$55,035,071 to the public employees' retirement system established in 19-3-103;
- 24 (b) \$609,107 to the highway patrol officers' retirement system established in 19-6-102;
- 25 (c) \$2,718,068 to the sheriffs' retirement system established in 19-7-102;
- 26 (d) \$1,087,613 to the game wardens' and peace officers' retirement system established in 19-8-102; and
- 27 (e) \$28,050,141 to the teachers' retirement system established in 19-20-102.

28 (2) If an actuarial valuation of a retirement system listed in subsection (1) shows that the retirement
29 system is 100% funded, the statutory appropriation to that retirement system terminates.

30

1 NEW SECTION. **Section 11. Additional guaranteed annual benefit adjustments suspended.**
 2 Beginning January 1, 2014, additional guaranteed annual benefit adjustments under 19-3-1605, ~~19-5-901,~~
 3 19-6-710, 19-6-711, 19-7-711, 19-8-1105, 19-9-1009, 19-9-1010, 19-9-1013, 19-13-1010, or 19-13-1011 are
 4 suspended UNTIL ALL OF THE RETIREMENT SYSTEMS UNDER CHAPTERS 3, 5 THROUGH 9, 13, AND 20 OF THIS TITLE ARE
 5 100% FUNDED AS OF EACH SYSTEM'S LATEST ANNUAL ACTUARIAL VALUATION.

6
 7 **Section 12.** Section 19-2-405, MCA, is amended to read:
 8 **"19-2-405. Employment of actuary -- annual investigation and valuation.** (1) The board shall retain
 9 a competent actuary who is an enrolled member of the American academy of actuaries and who is familiar with
 10 public systems of pensions. The actuary is the technical adviser of the board on matters regarding the operation
 11 of the retirement systems.

12 (2) The board shall require the actuary to make an annual actuarial investigation into the suitability of
 13 the actuarial tables used by the retirement systems and an actuarial valuation of the assets and liabilities of each
 14 defined benefit ~~plan~~ retirement system that is a part of the retirement systems.

15 (3) The normal cost contribution rate, which is funded by required employee contributions and a portion
 16 of the required employer contributions to each defined benefit retirement ~~plan~~ system, must be calculated as the
 17 level percentage of members' salaries that will actuarially fund benefits payable under a retirement plan as those
 18 benefits accrue in the future.

19 (4) (a) The unfunded liability contribution rate, which is entirely funded by a portion of the required
 20 employer contributions to the retirement plan, must be calculated as the level percentage of current and future
 21 defined benefit plan members' salaries that will amortize the unfunded actuarial liabilities of the retirement plan
 22 over a reasonable period of time, not to exceed 30 years, as determined by the board.

23 (b) In determining the amortization period under subsection (4)(a) for the public employees' retirement
 24 system's defined benefit plan, the actuary shall take into account the plan choice rate contributions to be made
 25 to the defined benefit plan pursuant to ~~19-3-2117 and 19-21-203~~ [section 41].

26 (5) The annual actuarial valuation of each defined benefit retirement system administered by the board
 27 must also include a projection of the flat dollar amount that the legislature would need to appropriate under
 28 [section 10] each fiscal year to ensure that each system administered by the board is 100% funded by 2043.

29 ~~(5)~~(6) The board shall require the actuary to conduct a periodic actuarial investigation into the actuarial
 30 experience of the retirement systems and plans. Copies of the report must be provided to the legislature pursuant

1 to 5-11-210.

2 ~~(6)(7)~~ The board may require the actuary to conduct any valuation necessary to administer the retirement
3 systems and the plans subject to this chapter."

4

5 **Section 13.** Section 19-2-407, MCA, is amended to read:

6 **"19-2-407. Reports.** (1) As soon as practical after the close of each fiscal year, the board shall file with
7 the governor and with the legislature pursuant to 5-11-210 a report of its work for that fiscal year. The report must
8 include but is not limited to:

9 (a) a statement as to the accumulated cash and securities in the pension trust funds as certified by the
10 state treasurer and the board of investments;

11 (b) a summary of the most recent information available from the actuary concerning the actuarial
12 valuation of the assets and liabilities of each system or plan; and

13 (c) an analysis of how market performance is affecting actuarial funding of each of the retirement
14 systems or plans.

15 (2) The report required under subsection (1) must also provide information concerning the defined
16 contribution plan, including a description of the plan, the number of members in the plan, plan contribution rates,
17 the total amount of money invested by members, investment performance, administrative costs and fees,
18 ~~determinations on the plan choice rate made pursuant to 19-3-2121,~~ and other information required under
19 applicable governmental accounting standards and as determined by the board."

20

21 **Section 14.** Section 19-2-408, MCA, is amended to read:

22 **"19-2-408. Administrative expenses.** (1) The legislature finds that proper administration of the pension
23 trust funds benefits both employers and members and continues to benefit members after retirement.

24 (2) (a) The administrative expenses of the retirement systems administered by the board must be paid
25 from the investment earnings on the pension trust fund of the public employees' retirement system's defined
26 benefit plan, except as otherwise provided in this section. The board shall compute the administrative expenses
27 attributable to each retirement system ~~or plan~~ administered by the board and transfer that amount from each
28 retirement system's ~~or plan's~~ pension trust fund to the pension trust fund of the public employees' retirement
29 system's defined benefit plan in a manner that ensures that the public employees' retirement system's defined
30 benefit plan trust fund is fully compensated for expenditures made on behalf of other systems ~~or plans~~ so that

1 there is no actuarial impact on the fund.

2 (b) The total administrative expenses of the board for the defined benefit retirement systems, including
3 the administration of the Volunteer Firefighters' Compensation Act, may not exceed 1.5% of the total defined
4 benefit ~~plan~~ system retirement benefits paid.

5 (3) For purposes of calculating the percentage specified in subsection (2)(b), administrative expenses
6 do not include:

7 (a) expenditures to purchase intangible assets for plan administration;

8 (b) expenses of the defined contribution plan;

9 (c) expenditures of funds allocated under 19-3-112(1)(b) to the education fund established in
10 19-3-112(1)(a); or

11 (d) expenses for an actuarial valuation under 19-2-405(2) performed during the first year of a biennium.

12 (4) The administrative expenses of the defined contribution plan must be paid, as provided in 19-3-2105,
13 from assets of the defined contribution plan."
14

15 **Section 15.** Section 19-2-715, MCA, is amended to read:

16 **"19-2-715. Purchase of Montana public service.** (1) (a) An active member may, at any time before
17 retirement, file a written application with the board to purchase as service credit in the member's retirement
18 system all or any portion of the member's previous service credit in the public employees', judges', highway patrol
19 officers', sheriffs', game wardens' and peace officers', firefighters' unified, or municipal police officers' retirement
20 system if the member has:

21 (i) received or is eligible to receive a refund of accumulated contributions; and

22 (ii) become a member of one of the other retirement systems covered under chapter 3, 5, 6, 7, 8, 9, or
23 13 of this title.

24 (b) To purchase this service credit, the member shall pay the actuarial cost of the service credit in the
25 member's current retirement system, based on the system's most recent actuarial valuation and the annual
26 compensation of the member, minus the employer contribution provided in subsection (1)(c).

27 (c) Upon receiving the member's payment under subsection (1)(b), the board shall transfer from the
28 member's former retirement system to the member's current retirement system an amount equal to the employer
29 contributions made on compensation during the member's former service, but no more than an amount equal to
30 the normal cost contribution rate minus the employee contribution rate in the member's current retirement system

1 according to the system's most recent actuarial valuation.

2 (d) If the member was formerly in the public employees' retirement system's defined contribution plan,
3 the member shall pay the actuarial cost of the service credit in the member's current retirement system based
4 on the system's most recent actuarial valuation and the annual compensation of the member. The member is
5 eligible to transfer the vested portion of the member's defined contribution account to pay the balance due. Any
6 nonvested portion of the defined contribution account is forfeited pursuant to ~~19-3-2117~~ 19-3-2116.

7 (2) (a) An active member may, at any time before retirement, file a written application with the board to
8 purchase all or a portion of previous employment for the state or a political subdivision of the state. The member
9 shall provide salary and employment documentation certified by the member's former public employer. To
10 purchase service credit under this section, the member shall pay the actuarial cost of the service credit in the
11 member's current retirement system, as determined by the board, based on the system's most recent actuarial
12 valuation. For the purpose of this subsection (2)(a), a political subdivision of the state includes a school district.

13 (b) The board is the sole authority under subsection (2)(a) in determining what constitutes public service,
14 subject to 19-2-403."
15

16 **Section 16.** Section 19-2-1004, MCA, is amended to read:

17 "**19-2-1004. Exemption from taxes and legal process.** Except as provided in 19-2-907 and 19-2-909,
18 the right of a person to any benefit or payment from a retirement system or plan and the money in the system or
19 plan's pension trust fund is not:

20 (1) subject to execution, garnishment, attachment, or any other process;

21 (2) subject to state, county, or municipal taxes except for:

22 (a) a benefit or annuity received in excess of the amount determined pursuant to 15-30-2110(2)(c); or

23 (b) a refund of a member's regular contributions picked up by an employer after June 30, 1985, as
24 provided in 19-3-315, 19-5-402, 19-6-402, 19-7-403, 19-8-502, 19-9-710, ~~or 19-13-601~~, or [section 40]; or

25 (3) assignable except as specifically provided in this chapter."
26

27 **Section 17.** Section 19-3-103, MCA, is amended to read:

28 "**19-3-103. Retirement system created -- system to consist of two plans until specified date.** (1)

29 A defined benefit retirement plan is created and established to become effective July 1, 1945.

30 (2) A defined contribution plan is established as provided in part 21 of this chapter.

1 (3) The public employees' retirement system consists of the defined benefit plan and the defined
 2 contribution plan until [the effective date of this section]. Each plan within the system is governed by the
 3 applicable provisions of chapter 2 and this chapter. Beginning [the effective date of this section], the system
 4 consists of only the defined benefit plan."

5

6 **Section 18.** Section 19-3-112, MCA, is amended to read:

7 **"19-3-112. Education fund established -- allocation of employer contributions -- educational**
 8 **program requirements.** (1) (a) The board shall establish an education fund to be used to educate and inform
 9 system members in a manner consistent with the provisions of this section.

10 (b) For the ongoing educational services and communication services established pursuant to this
 11 section, from the employer contributions made pursuant to 19-3-316, ~~0-04%~~ 0.02% of the compensation paid to
 12 all of the employer's employees who are members of the system must be allocated to the education fund
 13 established in subsection (1)(a). The board shall from time to time review the sufficiency of this amount and
 14 recommend to the legislature the adjustments that it considers appropriate.

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

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

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

27 (a) determining the amount of money available to transfer to the defined contribution plan;

28 (b) the features of and differences between the defined benefit plan and the defined contribution plan,
 29 both generally and specifically, as those differences may affect the member;

30 (c) the expected benefit available if the member were to retire under each of the retirement plans, based

1 on appropriate alternative sets of assumptions;

2 (d) the rate of return from investments in the defined contribution plan that must be achieved to equal
3 or exceed the expected monthly benefit payable to the member under the defined benefit plan, assuming the
4 same time period in each plan;

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

6 (f) determining retirement income needs and comparing determined retirement income needs to each
7 plan's possible or expected benefit;

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

9 (h) the plan choices available to employees of the university system pursuant to 19-3-2112 and the
10 comparative benefits of each available plan; and

11 (i) payout options available in each of the retirement plans.

12 (4) Ongoing educational services and communication services must be provided after members have
13 made their initial retirement plan choice. These services must continually provide members with information about
14 their chosen plan, alternatives within their chosen plan, and decisions necessary for retirement preparation. The
15 services must include but not be limited to information concerning:

16 (a) rights and conditions of membership;

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

18 (c) planning for retirement, including coordination of contributions and benefits with supplemental
19 retirement savings programs;

20 (d) significant plan changes; and

21 (e) contribution rates and plan funding status.

22 (5) The board shall also establish a communication program to provide plan information to participating
23 employers and the employer's personnel and payroll officers and to explain their respective responsibilities in
24 conjunction with the retirement plans.

25 (6) This section does not prohibit a contracted plan vendor or vendors from providing system members
26 with information and tools necessary to understand the available investment alternatives and to appropriately
27 manage their selected retirement plan."

28

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

30 **"19-3-201. Contracts with political subdivisions -- new contracts prohibited. (1) Except as provided**

1 in subsection (2), the following provisions apply:

2 (a) Any municipal corporation, county, or public agency in the state may become a contracting employer
3 through a contract entered into between the board and the legislative body of the contracting employer. The
4 contract must provide that all employees eligible under this chapter must become members. Contracts executed
5 prior to July 1, 2009, that limit membership to a specific group or groups of employees remain valid. The contract
6 may include any provisions that are consistent with chapter 2 and this chapter and necessary in the administration
7 of the retirement system as it affects the contracting employer and its employees.

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

10 (a)(i) The legislative body of the contracting employer shall adopt a resolution of intention to approve the
11 contract and containing a summary of the major provisions of the retirement system. The contract may not be
12 approved unless the employees proposed to be included in the retirement system adopt the proposal by a
13 majority affirmative vote in a secret ballot. The ballot at the election must include the summary of the retirement
14 system as set forth in the resolution. The election must be conducted as prescribed by the legislative body of the
15 contracting employer. Approval of the contract must be by the affirmative vote of two-thirds of the members of
16 the legislative body within 40 days after the adoption of the resolution.

17 (b)(ii) The contract must specify that the provisions of the retirement system apply to all employees on
18 the effective date of the contract and to all employees hired after the effective date of the contract. An employee's
19 membership in either the defined benefit plan or the defined contribution plan is determined on an individual basis
20 as provided in this chapter.

21 (c)(iii) The contract may be amended in the manner prescribed in this section for the original approval
22 of contracts. The contract must be approved by the board. The board may disapprove of a contract if, in the
23 board's sole discretion, the contract adversely affects the interests of the retirement system. Any amendments
24 to the retirement system made pursuant to Montana laws immediately apply to and become a part of the contract.

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

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

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

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

5 ~~(d)~~(iv) Upon receipt of the termination resolution, the board may request an actuarial valuation of the
6 liabilities of the terminating agency to the retirement system, and the board may withhold approval of the
7 termination of contract until satisfactory arrangements are made to provide funding for any excess accrued
8 liabilities not previously funded by the terminating agency.

9 (2) Beginning [the effective date of this section], the board may not enter into a contract under this
10 section."

11

12 **Section 20.** Section 19-3-203, MCA, is amended to read:

13 **"19-3-203. Conversion of local or state retirement plan -- new conversions prohibited.** (1) ~~If~~ Except
14 as provided in subsection (2), the following provisions apply:

15 ~~(a) the~~ The legislative body of any city, county, or public agency having an existing retirement, pension,
16 or annuity fund or system, referred to as the local system, desires to make the members of the local system
17 members of the public employees' retirement system, it may enter into a contract for that purpose with the board
18 in the manner provided in 19-3-201. However, the employees voting, as provided in 19-3-201~~(2)(a)(1)(b)(i)~~, must
19 be limited to active members of the local system, and approval requires an affirmative vote of two-thirds of the
20 employees.

21 ~~(2)(b)~~ Subject to the applicable provisions of this chapter, active members of the local system shall
22 become members of either the defined benefit plan or the defined contribution plan of the retirement system and
23 are no longer members of the local system. The pensions being paid to pensioners or annuitants of the local
24 system on the effective date of the contract must be continued and paid at their existing rates by the public
25 employees' retirement system. The liability for the pensions must be computed by the actuary and charged to the
26 contracting employer. All cash and securities held by the local system must be transferred to the retirement
27 system as of the effective date of the contract and credited to the employer. The value of the securities must be
28 determined by the board.

29 ~~(3)(c)~~ The trustees or other administrative head of the local system as of the effective date of the contract
30 shall certify the proportion, if any, of the funds of the system that represents the accumulated contributions of the

1 active members and the relative shares of the members as of that date. The shares must be charged to the
2 employer and credited as accumulated contributions of the members in the public employees' retirement system
3 and administered as if the contributions had been made during membership in the retirement system. Any excess
4 of employer credits over charges under this section must be offset, with regular interest, against future required
5 employer contributions. Any excess of employer charges over credits under this section must be payable by the
6 contracting employer, with regular interest, on a monthly basis as specified in the contract.

7 (2) This section applies only with respect to conversions prior to [the effective date of this section]."
8

9 **Section 21.** Section 19-3-315, MCA, is amended to read:

10 **"19-3-315. Member's contribution to be deducted.** (1) (a) Each member's contribution is:

11 (i) for a member hired prior to July 1, 2011, ~~6.9%~~ 7.9% of the member's compensation, which must be
12 reduced to 6.9% of the member's compensation beginning January 1 following an actuarial valuation showing
13 that the system is at least 100% funded; and

14 (ii) for a member hired on or after July 1, 2011, ~~7.9%~~ 8.9% of the member's compensation, which must
15 be reduced to 7.9% of the member's compensation beginning January 1 following an actuarial valuation showing
16 that the system is at least 100% funded.

17 (b) For members hired on or after July 1, 2011, the board shall periodically review the required
18 contributions and recommend future adjustments to the legislature as needed to maintain the amortization
19 schedule set by the board for the payment of the system's unfunded liability.

20 (2) Payment of salaries or wages less the contribution is full and complete discharge and acquittance
21 of all claims and demands for the service rendered by members during the period covered by the payment,
22 except their claims to the benefits to which they may be entitled under the provisions of this chapter.

23 (3) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code, 26 U.S.C.
24 414(h)(2), shall pick up and pay the contributions that would be payable by the member under subsection (1) for
25 service rendered after June 30, 1985.

26 (4) (a) The member's contributions picked up by the employer must be designated for all purposes of
27 the retirement system as the member's contributions, except for the determination of a tax upon a distribution
28 from the retirement system.

29 (b) In the case of a member of the defined benefit plan, these contributions must become part of the
30 member's accumulated contributions but must be accounted for separately from those previously accumulated.

1 (c) In the case of a member of the defined contribution plan, these contributions must be allocated as
 2 provided in 19-3-2117 through June 30, 2014. On or after July 1, 2014, the contributions must be allocated as
 3 provided in [section 41].

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

9

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

11 **"19-3-316. Employer contribution rates.** (1) Each employer of a member shall contribute to the system.
 12 Except as provided in subsection (2), the employer shall pay as employer contributions 6.9% of the compensation
 13 paid to all of the employer's employees who are members plus any additional contribution under subsection (3);
 14 ~~except for those employees properly excluded from membership.~~ Of employer contributions made under this
 15 subsection ~~for both defined benefit plan and defined contribution plan members,~~ a portion must be allocated for
 16 educational programs as provided in 19-3-112. Employer contributions for tier one or tier two members under the
 17 defined contribution plan must be allocated as provided in ~~19-3-2117~~ [section 41].

18 (2) Local government and school district employer contributions must be the total employer contribution
 19 rate provided in subsection (1) minus the state contribution rates under 19-3-319.

20 (3) Subject to subsection (4), each employer shall contribute to the system an additional employer
 21 contribution equal to 0.27% of the compensation paid to all of the employer's employees, except for those
 22 employees properly excluded from membership.

23 (4) (a) The board shall periodically review the additional employer contribution provided for under
 24 subsection (3) and recommend adjustments to the legislature as needed to maintain the amortization schedule
 25 set by the board for payment of the system's unfunded liabilities.

26 (b) The employer contribution required under subsection (3) terminates on July 1 following the board's
 27 receipt of the system's actuarial valuation if:

28 (i) the actuarial valuation determines that the period required to amortize the system's unfunded
 29 liabilities, including adjustments made for any benefit enhancements enacted by the legislature after the valuation,
 30 is less than 25 years; and

1 (ii) terminating the additional employer contribution would not cause the amortization period as of the
2 most recent actuarial valuation to exceed 25 years."

3

4 **Section 23.** Section 19-3-319, MCA, is amended to read:

5 **"19-3-319. State contributions for local government and school district employers.** (1) The state
6 shall contribute monthly from the general fund to the pension trust fund a sum equal to 0.1% of the compensation
7 paid to all members who are employees of local government entities and school districts on and after July 1,
8 1997, except those employees properly excluded from membership.

9 (2) (a) Subject to subsection (2)(b), in addition to the contribution required under subsection (1), the state
10 shall contribute monthly from the general fund to the pension trust fund a sum equal to 0.27% of the
11 compensation paid to all members who are employees of school districts ~~except for those employees properly~~
12 ~~excluded from membership.~~

13 (b) The additional contribution under subsection (2)(a) terminates when the additional contribution under
14 19-3-316(3) terminates.

15 (3) The board shall certify amounts due under this section on a monthly basis, and the state treasurer
16 shall transfer those amounts to the pension trust fund within 1 week. The payments in this section are statutorily
17 appropriated as provided in 17-7-502."

18

19 **Section 24.** Section 19-3-401, MCA, is amended to read:

20 **"19-3-401. Membership -- inactive vested members -- inactive nonvested members.** (1) Except as
21 otherwise provided in this chapter, all employees hired into a covered position prior to [the effective date of this
22 section] become members of the defined benefit plan on the first day of service. Each employer shall file with the
23 board information affecting the employer's employees' status as members as the board may require. An
24 employee ~~may~~ hired on or after [the effective date of this section] into a position that would have been a covered
25 position prior to [the effective date of this section] shall become a member of the defined contribution plan ~~only~~
26 as provided in Title 19, chapter 3, part 21 as provided in [section 33].

27 (2) (a) An inactive member of the defined benefit plan with at least 5 years of membership service is an
28 inactive vested member and retains the right to purchase service credit and to receive a service retirement benefit
29 subject to the provisions of this chapter.

30 (b) If an inactive vested member of the defined benefit plan chooses to take a lump-sum payment rather

1 than a retirement benefit, the lump-sum payment consists of only the member's accumulated contributions and
 2 not the employer's contributions.

3 (3) (a) An inactive member of the defined benefit plan with less than 5 years of membership service is
 4 an inactive nonvested member and is not eligible for any benefits from the retirement plan.

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

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

10 (a) returns to service within 30 days of termination of employment; or

11 (b) terminates one employment but remains employed in another position covered by the system.

12 (5) Time during which an employee of a school district, the Montana school for the deaf and blind, or a
 13 public institution of higher education is absent from service during official vacation is counted as membership
 14 service in determining eligibility for retirement benefits."
 15

16 **Section 25.** Section 19-3-412, MCA, is amended to read:

17 "**19-3-412. Optional membership.** (1) Except as provided in 5-2-304 and subsection (2) of this section,
 18 the following employees and elected officials in covered positions before [the effective date of this section] shall
 19 elect either to become active members of the retirement system or to decline this optional membership by filing
 20 an irrevocable, written application with the board in the manner prescribed in subsection (3):

21 (a) elected officials of the state or local governments, including individuals appointed to fill the unexpired
 22 term of elected officials, who:

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

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

26 (b) employees serving in employment that does not cumulatively exceed a total of 960 hours of covered
 27 employment with all employers under this chapter in any fiscal year; Employees who declined membership and
 28 who exceed a total of 960 hours of covered employment shall become active members of the system.

29 (c) employees directly appointed by the governor;

30 (d) employees working 10 months or less for the legislative branch to perform work related to the

1 legislative session;

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

3 (f) employees of county hospitals or rest homes.

4 (2) A member who is elected to a local government position in which the member works less than 960
5 hours in a calendar year may, within 90 days of taking office, decline optional membership with respect to the
6 member's elected position.

7 (3) (a) The board shall prescribe the form of the written application required pursuant to subsection (1)
8 and provide written application forms to each employer.

9 (b) Each employee or elected official in a position covered under subsection (1) shall obtain the written
10 application form from the employer and complete and return it to the board.

11 (c) The written application must be filed with the board:

12 (i) for an employee described in subsection (1)(d), within 90 days of the commencement of the
13 employee's employment; and

14 (ii) for an employee or elected official described in subsection (1)(a), (1)(b), (1)(c), (1)(e), or (1)(f), within
15 90 days of the commencement of the employee's or elected official's employment.

16 (d) The employer shall retain a copy of the employee's or elected official's written application.

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

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

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

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

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

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

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

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

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

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

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

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

13

14 **Section 26.** Section 19-3-1605, MCA, is amended to read:

15 **"19-3-1605. Guaranteed annual benefit adjustment -- suspension.** Except to the extent that benefit
16 adjustments are suspended as provided in [section 11], the following provisions apply:

17 (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during
18 the preceding January to each recipient who is eligible under subsection (3) must be increased by the applicable
19 percentage provided in subsection (4).

20 (2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more
21 adjustments not provided for in this section and the adjustments amount to less than an annualized increase of
22 the applicable percentage provided in subsection (4), then the recipient's benefit must be adjusted by an amount
23 that will provide a total annualized increase of the applicable percentage in the benefit paid since the preceding
24 January.

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

29 (c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the
30 original payee that occurred since the preceding January, the new recipient's monthly benefit must be increased

1 to the applicable percentage provided in subsection (5) more than the amount that the contingent annuitant would
 2 have received had the contingent annuitant received a benefit during the preceding January.

3 (3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the
 4 minimum annual benefit adjustment provided for in this section if the benefit's commencement date is at least
 5 12 months prior to January 1 of the year in which the adjustment is to be made.

6 (4) (a) The applicable percentage is 3% for benefit recipients hired or assuming office:

7 (i) before July 1, 2007; or

8 (ii) on or after July 1, 2007, if the benefit recipient is an existing member of a benefit plan for which the
 9 applicable percentage is 3%.

10 (b) Except as provided in subsection (4)(a)(ii), the applicable percentage is 1.5% for benefit recipients
 11 hired or assuming office on or after July 1, 2007.

12 (5) (a) The applicable percentage rate for a contingent annuitant described in subsection (2)(c) is 3%
 13 if the original payee:

14 (i) was hired or assumed office before July 1, 2007; or

15 (ii) was an existing member of a benefit plan for which the applicable percentage is 3%.

16 (b) Except as provided in subsection (5)(a)(ii), the applicable percentage rate for a contingent annuitant
 17 described in subsection (2)(c) is 1.5% if the original payee was hired or assumed office on or after July 1, 2007.

18 (6) The board shall adopt rules to administer the provisions of this section."
 19

20 **NEW SECTION. Section 27. Legislative intent and policy statements.** It is the intent and policy of
 21 the legislature that:

22 (1) the defined contribution retirement plan initially established as an optional plan within the public
 23 employees' retirement system be expanded to be a statewide mandatory defined contribution plan as provided
 24 for in this chapter;

25 (2) all public employees hired on and after [the effective date of this section] who would otherwise have
 26 been covered by a defined benefit retirement system under Title 19 shall instead become members of the
 27 statewide defined contribution retirement plan;

28 (3) temporary increases in employee contributions, funds available due to the suspension of additional
 29 guaranteed annual benefit adjustments, statutorily appropriated state coal tax revenue, and state general fund
 30 money, as appropriated by the legislature, be used to help pay the unfunded liabilities of the defined benefit

1 retirement systems established under Title 19;

2 (4) the coal tax revenue and general fund statutory appropriations be discontinued and the 1% member
3 contribution increases effective on [the effective date of this section] in the public employees', highway patrol
4 officers', sheriffs', game wardens' and peace officers', and teachers' retirement systems, be terminated
5 respectively when the defined benefit retirement system is at least 100% funded; and

6 (5) the goal is that all of the defined benefit retirement systems be 100% funded by July 1, 2043, to meet
7 the 30-year amortization schedule for unfunded liabilities that is generally accepted under actuarial standards as
8 providing funding on an actuarially sound basis as required by Article VIII, section 15, of the Montana constitution.

9

10 **Section 28.** Section 19-3-2101, MCA, is amended to read:

11 **"19-3-2101. Definitions.** Unless the context requires otherwise, as used in this ~~part~~ chapter, the
12 following definitions apply:

13 (1) "Defined benefit retirement system" means any of the following:

14 (a) the public employees' retirement system;

15 (b) the judges' retirement system;

16 (c) the highway patrol officers' retirement system;

17 (d) the sheriffs' retirement system;

18 (e) the game wardens' and peace officers' retirement system;

19 (f) the municipal police officers' retirement system;

20 (g) the firefighters' unified retirement system;

21 (h) the volunteer firefighters' compensation act; or

22 (i) the teachers' retirement system.

23 ~~(4)~~(2) "Member" means a person with a retirement account in the defined contribution plan.

24 ~~(2)~~(3) "Optional retirement program" means the retirement plan established by the board of regents under
25 chapter 21 of this title.

26 ~~(3)~~(4) "Plan" or "defined contribution plan" means the defined contribution retirement plan established
27 pursuant to this chapter.

28 (5) "Plan choice rate" means the amount of the employer contribution as a percentage of payroll covered
29 by the defined contribution plan that is allocated to the public employees' retirement system's defined benefit plan
30 pursuant to [section 41] to actuarially fund the unfunded liabilities and the normal cost rate changes in the defined

1 benefit plan resulting from tier one and tier two member selection of the defined contribution plan prior to [the
 2 effective date of this section].

3 (6) (a) "Tier one member" means an individual who became a member of the plan before July 1, 2011.

4 (b) "Tier two member" means an individual who became a member of the plan on or after July 1, 2011,
 5 but before [the effective date of this section].

6 (c) "Tier three member" means an individual who became a member on or after [the effective date of this
 7 section]."

8

9 **Section 29.** Section 19-3-2102, MCA, is amended to read:

10 **"19-3-2102. Defined contribution plan established -- assets to be held in trust -- contracted**
 11 **services.** (1) The board shall establish ~~within the public employees' retirement system~~ a defined contribution plan
 12 in accordance with the provisions of this ~~part~~ chapter. The plan must be established as a pension plan for the
 13 exclusive benefit of members and their beneficiaries and as a "qualified governmental plan" pursuant to section
 14 401(a) of the Internal Revenue Code and its implementing regulations. Retirement accounts must be established
 15 for each member of the defined contribution plan. Assets of the plan must be held in trust. The plan is established
 16 in addition to any retirement, pension, deferred compensation, or other benefit plan administered by the state or
 17 a political subdivision.

18 (2) The board may contract for plan administration and use a competitive bidding process when
 19 contracting for consulting, educational, investment, recordkeeping, or other services for the plan."

20

21 **NEW SECTION. Section 30. Contracts with political subdivisions.** (1) Any municipal corporation,
 22 county, or public agency in the state may participate in the defined contribution plan by becoming a contracting
 23 employer through a contract entered into between the board and the legislative body of the contracting employer.
 24 The contract may include any provisions that are consistent with chapter 2 and this chapter and necessary in the
 25 administration of the plan as it affects the contracting employer and its employees.

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

28 (a) The legislative body of the contracting employer shall adopt a resolution of intention to approve the
 29 contract that contains a summary of the major provisions of the retirement system. The contract may not be
 30 approved unless the employees proposed to be included in the retirement plan adopt the proposal by a majority

1 affirmative vote in a secret ballot. The ballot at the election must include the summary of the retirement system
 2 as set forth in the resolution. The election must be conducted as prescribed by the legislative body of the
 3 contracting employer. Approval of the contract must be by the affirmative vote of two-thirds of the members of
 4 the legislative body within 40 days after the adoption of the resolution.

5 (b) The contract must specify that the provisions of the plan apply to all employees on the effective date
 6 of the contract and to all employees hired after the effective date of the contract.

7 (c) The contract may be amended in the manner prescribed in this section for the original approval of
 8 contracts. The contract must be approved by the board. The board may disapprove of a contract if, in the board's
 9 sole discretion, the contract adversely affects the interests of the plan. Any amendments to the plan made
 10 pursuant to Montana law immediately apply to and become a part of the contract.

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

13 (a) The legislative body of a contracting employer shall adopt a resolution giving notice to its employees
 14 that it intends to terminate plan coverage.

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

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

21 (d) The board may withhold approval of the termination of the contract until satisfactory arrangements
 22 are made concerning the employees' assets.

23

24 **Section 31.** Section 19-3-2106, MCA, is amended to read:

25 **"19-3-2106. Limited contract right.** The statutory provisions governing the defined contribution plan
 26 and the optional retirement program are subject to amendment by the legislature. Employees ~~choosing who~~
 27 chose membership in the defined contribution plan or the optional retirement program ~~pursuant to this part prior~~
 28 to [the effective date of this section] or who were required to become members of the defined contribution plan
 29 on or after [the effective date of this section] do not have a contract right to the specific terms and conditions
 30 specified in statute on the date the employee's choice ~~becomes~~ became effective or on the date the employee

1 was required to become a member."

2

3 **NEW SECTION. Section 32. Education program -- expenses.** (1) The board shall establish an
4 education program as provided in this section and may contract for the provision of educational services.

5 (2) (a) Educational services must provide members with impartial and balanced information about the
6 retirement plan. The services must be provided in a variety of formats.

7 (b) If educational services are conducted by a contractor, the board shall monitor the performance of the
8 contract to ensure that the services are conducted in accordance with the contract, applicable law, and the rules
9 of the board.

10 (3) Ongoing educational and communication services must include but are not limited to information
11 concerning:

12 (a) rights and conditions of membership;

13 (b) investment choices;

14 (c) planning for retirement, including coordination of contributions and benefits with supplemental
15 retirement savings programs;

16 (d) significant retirement plan changes; and

17 (e) contribution rates.

18 (4) The board shall also establish a communication program to provide plan information to participating
19 employers and the employers' personnel and payroll officers and to explain their respective responsibilities in
20 conjunction with the retirement plan.

21 (5) This section does not prohibit a contractor from providing plan members with information and tools
22 necessary to understand the available investment alternatives within the retirement plan.

23 (6) Expenses of this program are administrative expenses and must be paid as provided in 19-3-2105.

24

25 **NEW SECTION. Section 33. Membership.** (1) A person who on or after [the effective date of this
26 section] would have become a member of the one of the following retirement systems before [the effective date
27 of this section] shall become a member of the defined contribution retirement plan:

28 (a) the public employees' retirement system;

29 (b) the judges' retirement system;

30 (c) the highway patrol officers' retirement system;

- 1 (d) the sheriffs' retirement system;
- 2 (e) the game wardens' and peace officers' retirement system;
- 3 (f) the municipal police officers' retirement system;
- 4 (g) the firefighters' unified retirement system;
- 5 (h) the volunteer firefighters' compensation act; or
- 6 (i) the teachers' retirement system.
- 7 (2) Membership in the defined contribution plan begins on the first day of employment covered under
- 8 the plan.

9

10 **Section 34.** Section 19-3-2111, MCA, is amended to read:

11 **"19-3-2111. Plan membership choices -- written election required -- failure to elect -- effect of**

12 **election.** (1) Except as otherwise provided in this part:

13 (a) a member of the public employees' retirement system who was an inactive member of the public

14 employees' retirement system defined benefit plan on the effective date of the defined contribution plan and who

15 is was rehired into covered employment under the public employees' retirement system after the plan effective

16 date and before [the effective date of this section] may, within the 12-month period provided for in subsection

17 (2)(a), elect to transfer to and become a member of the plan regardless of whether the member remains active,

18 becomes inactive, or terminates employment and plan membership within the 12-month period;

19 (b) a member of the public employees' retirement system who ~~is~~ was initially hired into covered

20 employment under the system on or after the effective date of the defined contribution plan and before [the

21 effective date of this section] may, within the 12-month period provided for in subsection (2)(a), elect to become

22 a member of the plan regardless of whether the member remains active, becomes inactive, or terminates

23 employment and plan membership within the 12-month period.

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

25 must be made within 12 months from the month that the employer properly reports the new or rehired member

26 to the board.

27 (b) A member failing to make an election prescribed by this section remains a member of the public

28 employees' retirement system defined benefit plan.

29 (c) An election under this section, including the default election pursuant to subsection (2)(b), is a

30 one-time irrevocable election. ~~Subject to 19-3-2113, this subsection (2)(c) does not prohibit a new election after~~

1 ~~a member has terminated membership in either plan and returned to covered employment.~~

2 (3) A member in either the public employees' retirement system defined benefit plan or the defined
3 contribution plan who becomes inactive after an election under this section and who returns to active membership
4 remains in the plan previously elected.

5 (4) A system member may not simultaneously be a member of the public employees' retirement system
6 defined benefit plan and the defined contribution plan and must be a member of either the defined benefit plan
7 or the defined contribution plan. A period of service may not be credited in more than one retirement plan within
8 the system.

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

11 (6) A member of the public employees' retirement system defined benefit plan who is subject to a family
12 law order pursuant to 19-2-907 or an execution or income-withholding order pursuant to 19-2-909 may not
13 transfer to the defined contribution plan unless the order is modified to apply under the defined contribution plan.

14 (7) (a) A member of the public employees' retirement system defined benefit plan who is purchasing
15 service credit through installment payments, either made directly to the board or pursuant to a payroll deduction
16 agreement, may not transfer membership to the defined contribution plan unless the member first completes or
17 terminates the contract for purchase of service credit.

18 (b) A member ~~who~~ of the public employees' retirement system who is eligible under this section files an
19 election to transfer membership may make a lump-sum payment for up to the balance of the service credit
20 remaining to be purchased prior to transferring, subject to the limitations of section 415 of the Internal Revenue
21 Code. The lump-sum payment, unless made by a rollover pursuant to 19-2-708, must be made with after-tax
22 dollars.

23 (c) If a member ~~who~~ of the public employees' retirement system who is eligible under this section files
24 an election to transfer membership fails to complete or terminate the contract for purchase of service credit by
25 the end of the member's 12-month election window, the board shall terminate the service purchase contract and
26 credit the member with the prorated amount of service credit purchased under the contract."
27

28 **Section 35.** Section 19-3-2112, MCA, is amended to read:

29 **"19-3-2112. Plan choices for members employed by university system -- amount available to**
30 **transfer -- effect on rights.** (1) If a member who is employed by the Montana university system is eligible to

1 make an election under ~~this part 19-3-2111~~ to transfer to the defined contribution plan, the employee may, instead
2 of electing the defined contribution plan, elect to transfer membership to the university system's optional
3 retirement program provided for under chapter 21 of this title.

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

6 (a) (i) A member employed by the university system who is an active member of the defined benefit plan
7 on the effective date of the defined contribution plan may, within the 12-month period provided for in subsection
8 (2)(b), elect to transfer to and become a member of the optional retirement program regardless of whether the
9 member remains active, becomes inactive, or terminates employment and plan membership within the 12-month
10 period.

11 (ii) A member who was an inactive member of the defined benefit plan on the effective date of the defined
12 contribution plan and who is hired or rehired into covered employment with the university system after that date
13 may, within the 12-month period provided for in subsection (2)(b), elect to transfer to and become a member of
14 the optional retirement program regardless of whether the member remains active, becomes inactive, or
15 terminates employment and plan membership within the 12-month period.

16 (iii) A member who is initially hired into covered employment with the university system on or after the
17 effective date of the defined contribution plan may, within the 12-month period provided for in subsection (2)(b),
18 elect to become a member of the optional retirement program regardless of whether the member remains active,
19 becomes inactive, or terminates employment and plan membership within the 12-month period.

20 (b) Elections made pursuant to this section must be made on a form prescribed by the board and must
21 be made within 12 months from the month that the employer properly reports the new or rehired member to the
22 board.

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

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

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

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

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

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

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

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

18 (ii) A member who files an election to transfer membership may make a lump-sum payment for up to the
19 balance of the service credit remaining to be purchased prior to transferring, subject to the limitations of section
20 415 of the Internal Revenue Code. The lump-sum payment, unless made by a rollover pursuant to 19-2-708, must
21 be made with after-tax dollars.

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

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

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

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Section 36. Section 19-3-2114, MCA, is amended to read:

"19-3-2114. Amount available to transfer. (1) (a) For an employee who was an active member of the public employees' retirement system defined benefit plan on the day before the effective date of the defined contribution plan and who elects under 19-3-2111 to transfer to the plan:

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

(ii) for amounts contributed on or after July 1, 2002, the board shall transfer from the defined benefit plan to the member's retirement account an amount equal to the amount that would have been allocated to the member's account pursuant to ~~19-3-2117~~ [section 41], plus 8% compounded annual interest from the month that the contributions were received.

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

Years of membership service	Percentage of employer contributions available to transfer
Less than 5 years	65.53%
5 to 9 years	58.59%
10 to 14 years	55.26%
15 to 19 years	55.42%
20 or more years	57.53%

(2) For an employee hired into a position covered under the public employees' retirement system on or after the effective date of the defined contribution plan and before [the effective date of this section] who elects under 19-3-2115 to become a member of the plan, the board shall transfer from the defined benefit plan to the member's retirement account an amount equal to the amount that would have been allocated to the member's account pursuant to ~~19-3-2117~~ [section 41] had the employee become a plan member on the employee's hire date, plus:

(a) 8% compounded annual interest from the initial month that the contributions were received through

1 the last month that the contributions were received prior to July 1, 2011; and

2 (b) 7.75% compounded annual interest from July 1, 2011, forward.

3 (3) For an employee who was an inactive member of the public employees' retirement system defined
4 benefit plan on the date that the defined contribution plan became effective and who after that date became an
5 active member and elected under 19-3-2111 to transfer to the defined contribution plan:

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

10 (b) for amounts contributed on or after July 1, 2002, the board shall transfer from the defined benefit plan
11 to the member's retirement account an amount equal to the amount that would have been allocated to the
12 member's account pursuant to ~~19-3-2117~~ [section 41], plus:

13 (i) 8% compounded annual interest from the initial month that the contributions were received through
14 the last month that the contributions were received prior to July 1, 2011; and

15 (ii) 7.75% compounded annual interest from July 1, 2011, forward."

16

17 **Section 37.** Section 19-3-2115, MCA, is amended to read:

18 **"19-3-2115. Transfers or rollovers into plan -- service transfers -- membership credit for purposes**

19 **of vesting.** (1) (a) Except as provided in subsection (2), the board shall accept the rollover of contributions and
20 the income on those contributions from another eligible retirement plan to the member's vested account as
21 allowed under applicable federal law.

22 (b) To transfer service credit from another retirement system in this title, an employee must be a member
23 of the defined benefit plan. The member must receive membership service and service credit for the service the
24 member transfers. ~~The~~ A transferring member who was hired into a position covered by the public employees'
25 retirement system prior to [the effective date of this section] may, within 12 months after ~~joining the defined benefit~~
26 ~~plan being hired~~, elect to become a member of the defined contribution plan. The transferred service credit may
27 be used for purposes of vesting in the defined contribution plan pursuant to 19-3-2116.

28 (2) The board shall accept a direct rollover of eligible distributions from another eligible retirement plan
29 only to the extent permitted by the Internal Revenue Code."

30

1 **Section 38.** Section 19-3-2116, MCA, is amended to read:

2 **"19-3-2116. Vesting -- mandatory termination of membership -- forfeitures.** (1) A member's
3 contribution account includes the member's contributions and the income on those contributions and is vested
4 from the date that the employee becomes a member of the plan.

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

8 (3) A member's account for other contributions includes the member's rollovers of contributions made
9 pursuant to 19-3-2115 and income on those contributions and is vested from the date that the contribution is
10 credited to the account.

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

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

15 (6) If the member's employer contribution account is not vested upon termination of plan membership,
16 as provided in 19-3-2123, the employer contributions and income are forfeited and must be allocated as provided
17 in ~~19-3-2117~~ [section 39]."

18
19 **NEW SECTION. Section 39. Use of forfeitures.** Forfeitures of employer contributions and investment
20 income on the employer contributions may not be used to increase a member's retirement account. The board
21 shall allocate the forfeitures under 19-3-2116 to meet the plan's administrative expenses.

22
23 **NEW SECTION. Section 40. Member contributions -- exception for volunteer firefighters.** (1) (a)
24 A tier one member shall contribute to the member's contribution account 6.9% of the member's compensation.

25 (b) A tier two member shall contribute to the member's contribution account 7.9% of the member's
26 compensation.

27 (2) The contributions by tier three members must be as follows:

28 (a) A tier three member who would have been covered under the public employees', teachers', or judge's
29 retirement system, if the person was hired before [the effective date of this section], shall contribute to the
30 member's contribution account 7% of the member's compensation.

1 (b) A tier three member who would have been covered under the sheriffs' or game wardens' and peace
2 officers' retirement system, if the person was hired before [the effective date of this section], shall contribute to
3 the member's contribution account 9% of the member's compensation.

4 (c) A tier three member who would have been covered under the highway patrol officers', municipal
5 police officers', or firefighters' unified retirement system, if the person was hired before [the effective date of this
6 section], shall contribute to the member's contribution account 11% of the member's compensation.

7 (3) Payment of salaries or wages minus the contribution is full and complete discharge and acquittance
8 of all claims and demands for the service rendered by members during the period covered by the payment,
9 except their claims to the benefits to which they may be entitled under the provisions of this chapter.

10 (4) Each employer, pursuant to section 414(h)(2) of the Internal Revenue Code, 26 U.S.C. 414(h)(2),
11 shall pick up and pay the contributions that would be payable by the member under subsection (1) or (2) for
12 service rendered after June 30, 1985.

13 (5) The member's contributions picked up by the employer must be designated for all purposes of the
14 retirement plan as the member's contributions, except for the determination of a tax upon a distribution from the
15 retirement system.

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

21 (7) Contributions for volunteer firefighters must be as provided in 19-17-301.

22
23 **NEW SECTION. Section 41. Employer contributions for tier one and tier two members.** (1) Except
24 as provided in [section 42] and subsection (2) of this section, each employer of a tier one or tier two member shall
25 contribute 7.17% of each member's compensation, which the board shall allocate as follows:

26 (a) until July 1, 2017:

27 (i) 4.21% of compensation must be allocated to the member's retirement account;

28 (ii) 0.3% of compensation must be allocated to the long-term disability plan trust fund established
29 pursuant to 19-3-2141;

30 (iii) 0.02% of compensation must be allocated to the education fund established in 19-3-112;

- 1 (iv) 2.37% of compensation must be allocated as the plan choice rate; and
 2 (v) 0.27% of compensation must be allocated to the public employees' retirement system.
 3 (b) beginning July 1, 2017:
 4 (i) 6.58% of compensation must be allocated to the member's retirement account;
 5 (ii) 0.3% of compensation must be allocated to the long-term disability plan trust fund established
 6 pursuant to 19-3-2141;
 7 (iii) 0.02% of compensation must be allocated to the education fund established in 19-3-112; and
 8 (iv) 0.27% of compensation must be allocated to the public employees' retirement system.
 9 (2) When the additional employer contribution in 19-3-316(3) terminates, each employer of a tier one or
 10 tier two member shall contribute 6.9% of each member's compensation, which the board shall allocate as follows:
 11 (i) 6.58% of compensation must be allocated to the member's retirement account;
 12 (ii) 0.3% of compensation must be allocated to the long-term disability plan trust fund established
 13 pursuant to 19-3-2141; and
 14 (iii) 0.02% of compensation must be allocated to the education fund established in 19-3-112.
 15

16 **NEW SECTION. Section 42. State contributions to offset local government and school district**
 17 **contributions for tier one and tier two members.** (1) Except as provided in subsection (2), the following
 18 provisions apply:

- 19 (a) For tier one and tier two members employed by a local government:
 20 (i) each local government employer shall contribute 7.07% of the members' compensation; and
 21 (ii) the state shall contribute from the general fund 0.1% of the members' compensation.
 22 (b) For tier one and tier two members employed by a school district:
 23 (i) each school district employer shall contribute 6.8% of each member's earned compensation; and
 24 (ii) the state shall contribute from the general fund 0.37% of the member's earned compensation.
 25 (2) When the additional employer contribution under 19-3-316(3) terminates, for tier one and tier two
 26 members:
 27 (a) each local government and school district shall contribute 6.8% of the members' compensation; and
 28 (b) the state shall contribute from the general fund 0.1% of the members' compensation.
 29

30 **NEW SECTION. Section 43. Employer contributions for tier three members.** (1) (a) Except as

1 provided in subsection (1)(b), each employer of a tier three member who would have been covered under the
2 public employees' or teachers' retirement system prior to [the effective date of this section] shall contribute 8%
3 of each member's compensation, which the board shall allocate as follows:

4 (i) 5% of compensation must be allocated to each member's retirement account;

5 (ii) 3% of compensation for each member who would have been a member of the public employees'
6 retirement system must be allocated to that system's unfunded liabilities; and

7 (iii) 3% to compensation for each member who would have been a member of the teachers' retirement
8 system must be allocated to that system's unfunded liabilities.

9 (b) (i) Beginning January 1 following an actuarial valuation showing that the public employees' retirement
10 system is at least 100% funded, each employer of a tier three member who would have been covered under the
11 public employees' retirement system prior to [the effective date of this section] shall contribute 7% of each
12 member's compensation, which the board shall allocate to each member's retirement account.

13 (ii) Beginning January 1 following an actuarial valuation showing that the teachers' retirement system is
14 at least 100% funded, each employer of a tier three member who would have been covered under the teachers'
15 retirement system prior to [the effective date of this section] shall contribute 7% of each member's compensation,
16 which the board shall allocate to each member's retirement account.

17 (2) Each employer of a tier three member who would have been covered under the judges' retirement
18 system prior to [the effective date of this section] shall contribute 25.81% of each member's compensation, which
19 the board shall allocate to the member's retirement account.

20 (3) (a) Except as provided in subsection (3)(b), each employer of a tier three member who would have
21 been covered under the sheriffs' or game wardens' and peace officers' retirement system prior to [the effective
22 date of this section] shall contribute 10% of each member's compensation, which the board shall allocate as
23 follows:

24 (i) 7% of compensation must be allocated to each member's retirement account;

25 (ii) 3% of compensation for each member who would have been a member of the sheriffs' retirement
26 system must be allocated to that system's unfunded liabilities; and

27 (iii) 3% of compensation for each member who would have been a member of the game wardens' and
28 peace officers' retirement system must be allocated to that system's unfunded liabilities.

29 (b) (i) Beginning January 1 following an actuarial valuation showing that the sheriffs' retirement system
30 is at least 100% funded, each employer of a tier three member who would have been covered under that system

1 prior to [the effective date of this section] shall contribute 9% of each member's compensation, which the board
2 shall allocate to each member's retirement account.

3 (ii) Beginning January 1 following an actuarial valuation showing that the game wardens' and peace
4 officers' retirement system is at least 100% funded, each employer of a tier three member who would have been
5 covered under that system prior to [the effective date of this section] shall contribute 9% of each member's
6 compensation, which the board shall allocate to each member's retirement account.

7 (4) (a) Except as provided in subsection (4)(b), each employer of a tier three member who would have
8 been covered under the highway patrol officers', municipal police officers', or firefighters' unified retirement system
9 prior to [the effective date of this section] shall contribute 15% of each member's compensation, which the board
10 shall allocate as follows:

11 (i) 12% of compensation must be allocated to the member's retirement account;

12 (ii) 3% of compensation for each member who would have been a member of the highway patrol officers'
13 retirement system must be allocated to that system's unfunded liabilities;

14 (iii) 3% of compensation for each member who would have been a member of the municipal police
15 officers' retirement system must be allocated to that system's unfunded liabilities; and

16 (iv) 3% of compensation for each member who would have been a member of the firefighters' unified
17 retirement system must be allocated to that system's unfunded liabilities.

18 (b) (i) Beginning January 1 following an actuarial valuation showing that the highway patrol officers'
19 retirement system is at least 100% funded, each employer of a tier three member who would have been covered
20 under that system prior to [the effective date of this section] shall contribute 14% of each member's
21 compensation, which the board shall allocate to each member's retirement account.

22 (ii) Beginning January 1 following an actuarial valuation showing that the municipal police officers'
23 retirement system is at least 100% funded, each employer of a tier three member who would have been covered
24 under that system prior to [the effective date of this section] shall contribute 14% of each member's
25 compensation, which the board shall allocate to each member's retirement account.

26 (iii) Beginning January 1 following an actuarial valuation showing that the firefighters' unified retirement
27 system is at least 100% funded, each employer of a tier three member who would have been covered under that
28 system prior to [the effective date of this section] shall contribute 14% of each member's compensation, which
29 the board shall allocate to each member's retirement account.

30 (5) Contributions for volunteer firefighters must be as provided in 19-17-301.

1
2 **NEW SECTION. Section 44. Tax levy to meet employer's obligations.** (1) If the required contributions
3 to the defined contribution retirement plan exceed the funds available to a contracting employer from general
4 revenue sources, the contracting employer may budget, levy, and collect annually a special tax upon the
5 assessable property of the contracting employer in the number of cents per \$100 of assessable property that is
6 sufficient to raise the amount estimated by the legislative body to be required to provide sufficient revenue to meet
7 the obligation of the contracting employer to the plan. The rate of taxation may be in addition to the annual rate
8 of taxation allowed by law to be levied by the contracting employer.

9 (2) A person who is a member or designated beneficiary of the plan because of the participation of the
10 contracting employer may maintain the appropriate action or proceeding to require the contracting employer to
11 budget, levy, and collect the special tax authorized in subsection (1).

12
13 **NEW SECTION. Section 45. Refund of contributions made after member becomes inactive.**
14 Contributions made on the basis of compensation earned by members after they are considered to be inactive
15 members must be refunded to the employer.

16
17 **Section 46.** Section 19-3-2126, MCA, is amended to read:

18 **"19-3-2126. Refunds -- minimum account balance -- adjustment by rule.** (1) Before termination of
19 service, a member may not receive a refund of any portion of the member's vested account balance.

20 (2) Except as provided in 19-3-2142, a member who terminates service and whose vested account
21 balance is less than \$200 must be paid the vested account balance in a lump sum. If the member's employer
22 contribution account is not vested, the employer contributions and income are forfeited and must be allocated
23 as provided in ~~19-3-2117~~ [section 39]. The payment must be made as soon as administratively feasible without
24 a written application from the member.

25 (3) Except as provided in 19-3-2142, unless a written application is made pursuant to subsection (4)(a),
26 a member who terminates service and whose vested account balance is between \$200 and \$1,000 must be paid
27 the vested account balance in a lump sum. The payment must be made as soon as administratively feasible. If
28 the member's employer contribution account is not vested, the employer contributions and income are forfeited
29 and must be allocated as provided in ~~19-3-2117~~ [section 39].

30 (4) (a) Except as provided in 19-3-2142, upon the written application of a member terminating service

1 whose vested account balance is \$200 or more, the board shall make a direct rollover distribution pursuant to
 2 section 401(a)(31) of the Internal Revenue Code, 26 U.S.C. 401(a)(31), of the eligible rollover distribution portion
 3 of that balance. To receive the direct rollover distribution, the member is responsible for correctly designating,
 4 on forms provided by the board, an eligible retirement plan that allows the rollover under applicable federal law.

5 (b) The direct rollover distribution must be paid directly to an eligible retirement plan allowed under
 6 applicable federal law that, effective January 1, 2008, includes a Roth IRA provided for in section 408A of the
 7 Internal Revenue Code, 26 U.S.C. 408A.

8 (5) A member who terminates service with an account balance greater than \$1,000, whether vested or
 9 not, may remain in the plan.

10 (6) The board may by rule adjust the minimum account balance provided in this section as necessary
 11 to maintain reasonable administrative costs and to account for inflation and in accordance with the requirements
 12 of section 401(a)(31)(B) of the Internal Revenue Code, 26 U.S.C. 401(a)(31)(B), and applicable regulations."

13

14 **Section 47.** Section 19-3-2141, MCA, is amended to read:

15 **"19-3-2141. Long-term disability plan for tier one and tier two members -- benefit amount --**
 16 **eligibility -- administration and rulemaking.** (1) For tier one members ~~hired prior to July 1, 2011:~~

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

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

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

26 (a) more than 5 but less than 10 years of membership service is equal to 1.5% of the member's highest
 27 average compensation multiplied by the member's years of service credit, including any additional service credit
 28 purchased under 19-3-513;

29 (b) 10 or more but less than 30 years of membership service is equal to one fifty-sixth of the member's
 30 highest average compensation multiplied by the member's years of service credit, including any additional service

1 credit purchased under 19-3-513; or

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

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

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

7 (b) for tier one members ~~hired prior to July 1, 2011~~:

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

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

12 (c) for tier two members ~~hired on or after July 1, 2011~~:

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

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

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

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

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

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

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

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

30

1 NEW SECTION. **Section 48. Disability insurance for tier three members -- rulemaking.** (1) The
2 board shall contract for disability insurance for each tier three member.

3 (2) The disability insurance must provide separate coverage and premium rates for members employed
4 in public safety professions.

5 (3) The cost of the insurance must be shared equally by each employer and employee. The board may
6 charge the employer and employee cost either as a percentage of the tier three member's compensation or as
7 a flat dollar amount that each employer and tier three member shall pay. Premiums for disability insurance must
8 be paid separately from retirement system contributions.

9 (4) The premiums for the disability insurance may not exceed an amount equal to 2.5% of compensation
10 for tier three members employed in a public safety profession or 0.5% of compensation for tier three members
11 employed in professions that are not public safety professions.

12 (5) The board shall prescribe procedures by administrative rule for applying for disability benefits and
13 for board determination of eligibility for disability benefits under this section.

14

15 **Section 49.** Section 19-5-301, MCA, is amended to read:

16 **"19-5-301. Membership -- inactive vested members -- inactive nonvested members.** Except as
17 provided in [section 33], the following provisions apply:

18 (1) Except for a judge or justice who elected in writing to remain under the public employees' retirement
19 system on or before October 1, 1985, a judge of a district court, a justice of the supreme court, and the chief
20 water judge or associate water judge provided for in 3-7-221 must be members of the Montana judges' retirement
21 system.

22 (2) A judge pro tempore is not eligible for active membership in the retirement system.

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

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

30

1 ~~Section 50.~~ Section 19-5-901, MCA, is amended to read:

2 ~~"19-5-901. Guaranteed annual benefit adjustment -- suspension. Except to the extent that benefit~~
 3 ~~adjustments are suspended as provided in [section 11], the following provisions apply:~~

4 ~~(1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during~~
 5 ~~the preceding January to each recipient who is eligible under subsection (3) must be increased by 3%.~~

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

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

13 ~~(c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the~~
 14 ~~original payee that occurred since the preceding January, the new recipient's monthly benefit must be increased~~
 15 ~~to 3% more than the amount that the contingent annuitant would have received had the contingent annuitant~~
 16 ~~received a benefit during the preceding January.~~

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

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

21 ~~(b) the member or benefit recipient either:~~

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

23 ~~(ii) filed a voluntary, irrevocable election to be covered under this section. The election must be filed with~~
 24 ~~the board prior to January 1, 1998.~~

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

26

27 ~~Section 51.~~ Section 19-5-902, MCA, is amended to read:

28 ~~"19-5-902. Election -- guaranteed annual benefit adjustment -- suspension. Except to the extent that~~
 29 ~~benefit adjustments are suspended as provided in [section 11], the following provisions apply:~~

30 ~~(1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during~~

1 the preceding January to each recipient who is eligible under subsection (3) must be increased by 3%.

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

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

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

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

13 ~~———— (b) the member either:~~

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

15 ~~———— (ii) filed a voluntary, irrevocable election to be covered under this section. The election must be filed with~~
 16 ~~the board prior to December 1, 2005.~~

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

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

21

22 **Section 50.** Section 19-6-301, MCA, is amended to read:

23 **"19-6-301. Membership -- inactive vested members -- inactive nonvested members.** Except as
 24 provided in [section 33], the following provisions apply:

25 (1) All members of the Montana highway patrol, including the supervisor and assistant supervisors, must
 26 be members of the retirement system.

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

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

1 contributions.

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

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

6

7 **Section 51.** Section 19-6-402, MCA, is amended to read:

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

10 (b) A member covered under 19-6-710 shall contribute ~~9.05%~~ 10.05% of the member's compensation,
11 which must be reduced to 9.05% of the member's compensation beginning January 1 following an actuarial
12 valuation showing that the system is at least 100% funded.

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

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

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

25

26 **Section 52.** Section 19-6-710, MCA, is amended to read:

27 **"19-6-710. Guaranteed annual benefit adjustment -- suspension.** Except to the extent that benefit
28 adjustments are suspended as provided in [section 11], the following provisions apply:

29 (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during
30 the preceding January to each recipient who is eligible under subsection (3) must be increased by 3%.

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

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

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

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

12 (b) the member either:

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

14 (ii) filed a voluntary, irrevocable election to be covered under this section. The election must be filed with
15 the board prior to January 1, 1998, and requires an active member to pay an increased contribution rate from July
16 1, 1997, forward. A retired member or the member's survivor who is receiving a monthly benefit before July 1,
17 1997, shall also file the voluntary, irrevocable election no later than January 1, 1998, to be covered under this
18 section.

19 (4) The board shall adopt rules to administer the provisions of this section."
20

21 **Section 53.** Section 19-6-711, MCA, is amended to read:

22 **"19-6-711. Election -- guaranteed annual benefit adjustment -- suspension.** Except to the extent that
23 benefit adjustments are suspended as provided in [section 11], the following provisions apply:

24 (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during
25 the preceding January to each recipient who is eligible under subsection (3) must be increased by 3%.

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

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

1 adjustments not provided for in this section and the increases amount to more than a 3% annualized increase,
 2 then the benefit increase provided under this section must be 0%.

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

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

7 (b) the member either:

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

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

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

11 (B) requires an active member to pay an increased or revised contribution rate from January 1, 2002,
 12 forward.

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

14 (5) The decision of a member who elected to participate under 19-6-710 remains valid. The decision of
 15 a member who elected not to participate under 19-6-710 may be reversed under this section."
 16

17 **Section 54.** Section 19-7-301, MCA, is amended to read:

18 **"19-7-301. Membership -- inactive vested members -- inactive nonvested members.** Except as
 19 provided in [section 33], the following provisions apply:

20 (1) (a) Except as provided in subsection (1)(b), each sheriff shall become a member of the sheriffs'
 21 retirement system.

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

25 (2) (a) Except as provided in subsection (2)(b), an investigator shall become a member of the sheriffs'
 26 retirement system.

27 (b) An investigator who was a member of the public employees' retirement system on July 1, 1993, may
 28 remain in the public employees' retirement system or elect to become a member of the sheriffs' retirement system
 29 by filing a written election with the board at any time before retirement.

30 (3) (a) Except as provided in subsection (3)(b), a detention officer shall become a member of the sheriffs'

1 retirement system.

2 (b) A detention officer who was a member of the public employees' retirement system on July 1, 2005,
3 may remain in the public employees' retirement system or elect to become a member of the sheriffs' retirement
4 system by filing a written election with the board before May 1, 2006.

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

9 (5) A sheriff, investigator, or detention officer who elects to become a member of the sheriffs' retirement
10 system must be an active member as long as actively employed in an eligible capacity, except as provided in
11 19-7-1101(2).

12 (6) (a) An inactive member with at least 5 years of membership service is an inactive vested member
13 and retains the right to purchase service credit and to receive a retirement benefit under the provisions of this
14 chapter.

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

18 (7) (a) An inactive member with less than 5 years of membership service is an inactive nonvested
19 member and is not eligible for any benefits from the retirement system.

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

22

23 **Section 55.** Section 19-7-403, MCA, is amended to read:

24 **"19-7-403. Member's contributions deducted.** (1) Each member's contribution is ~~9.245%~~ 10.245%
25 of the member's compensation, which must be reduced to 9.245% of the member's compensation beginning
26 January 1 following an actuarial valuation showing that the system is at least 100% funded.

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

30 (3) The member's contributions picked up by the employer must be designated for all purposes of the

1 retirement system as the member's contributions, except for the determination of a tax upon a distribution from
2 the retirement system. These contributions must become part of the member's accumulated contributions but
3 must be accounted for separately from those previously accumulated.

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

9

10 **Section 56.** Section 19-7-711, MCA, is amended to read:

11 **"19-7-711. Guaranteed annual benefit adjustment -- suspension.** Except to the extent that benefit
12 adjustments are suspended as provided in [section 11], the following provisions apply:

13 (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during
14 the preceding January to each recipient who is eligible under subsection (3) must be increased by the applicable
15 percentage provided in subsection (4).

16 (2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more
17 adjustments not provided for in this section and the adjustments amount to less than an annualized increase of
18 the applicable percentage provided in subsection (4), then the recipient's benefit must be adjusted by an amount
19 that will provide a total annualized increase of the applicable percentage in the benefit paid since the preceding
20 January.

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

25 (c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the
26 original payee that occurred since the preceding January, the new recipient's monthly benefit must be increased
27 to the applicable percentage provided in subsection (5) more than the amount that the contingent annuitant would
28 have received had the contingent annuitant received a benefit during the preceding January.

29 (3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the
30 minimum annual benefit adjustment provided for in this section if the benefit's commencement date is at least

1 12 months prior to January 1 of the year in which the adjustment is to be made.

2 (4) (a) The applicable percentage is 3% for benefit recipients hired or assuming office:

3 (i) before July 1, 2007; or

4 (ii) on or after July 1, 2007, if the benefit recipient is an existing member of a benefit plan for which the
5 applicable percentage is 3%.

6 (b) Except as provided in subsection (4)(a)(ii), the applicable percentage is 1.5% for benefit recipients
7 hired or assuming office on or after July 1, 2007.

8 (5) (a) The applicable percentage rate for a contingent annuitant described in subsection (2)(c) is 3%
9 if the original payee:

10 (i) was hired or assumed office before July 1, 2007; or

11 (ii) was an existing member of a benefit plan for which the applicable percentage is 3%.

12 (b) Except as provided in subsection (5)(a)(ii), the applicable percentage rate for a contingent annuitant
13 described in subsection (2)(c) is 1.5% if the original payee was hired or assumed office on or after July 1, 2007.

14 (6) The board shall adopt rules to administer the provisions of this section."
15

16 **Section 57.** Section 19-7-801, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

27

28 **Section 58.** Section 19-8-301, MCA, is amended to read:

29 **"19-8-301. Membership -- inactive vested members -- inactive nonvested members.** Except as
30 provided in [section 33], the following provisions apply:

1 (1) Except as provided in 19-8-302, the following state peace officers must be covered under the game
2 wardens' and peace officers' retirement system and, beginning on the first day of employment, must become and
3 shall remain active members for as long as they are employed as peace officers:

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

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

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

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

8 (e) corrections officers employed by the department of corrections;

9 (f) probation and parole officers employed by the department of corrections;

10 (g) stock inspectors and detectives employed by the department of livestock; and

11 (h) drill instructors employed by the department of corrections.

12 (2) (a) An inactive member with at least 5 years of membership service is an inactive vested member
13 and retains the right to purchase service credit and to receive a retirement benefit under the provisions of this
14 chapter.

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

18 (3) (a) An inactive member with less than 5 years of membership service is an inactive nonvested
19 member and is not eligible for any benefits from the retirement system.

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

22

23 **Section 59.** Section 19-8-302, MCA, is amended to read:

24 **"19-8-302. Public employees' retirement system -- transfer of membership.** Except as provided in
25 [section 33], the following provisions apply:

26 (1) Except as provided in subsection (3), an eligible peace officer must become a member of the game
27 wardens' and peace officers' retirement system on the first day of service.

28 (2) A person who is a member of the game wardens' and peace officers' retirement system assigned
29 to law enforcement who transfers to a position involving duties other than law enforcement within the same state
30 agency may retain membership in the game wardens' and peace officers' retirement system by filing a written

1 election with the board no later than 30 days after transfer to the new position.

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

6

7 **Section 60.** Section 19-8-502, MCA, is amended to read:

8 **"19-8-502. Member's contribution.** (1) Each member's contribution is ~~10.56%~~ 11.56% of the member's
9 compensation, which must be reduced to 10.56% of the member's compensation beginning January 1 following
10 an actuarial valuation showing that the system is at least 100% funded.

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

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

18 (4) The member's contributions picked up by the employer must be payable from the same source as
19 is used to pay compensation to the member and must be included in the member's wages, as defined in
20 19-1-102, and the member's compensation as used to define the member's highest average compensation in
21 19-8-101. The employer shall deduct from the member's compensation an amount equal to the amount of the
22 member's contributions picked up by the employer and remit the total of the contributions to the board."

23

24 **Section 61.** Section 19-8-1105, MCA, is amended to read:

25 **"19-8-1105. Guaranteed annual benefit adjustment -- suspension.** Except to the extent that benefit
26 adjustments are suspended as provided in [section 11], the following provisions apply:

27 (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during
28 the preceding January to each recipient who is eligible under subsection (3) must be increased by the applicable
29 percentage provided in subsection (4).

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

1 adjustments not provided for in this section and the adjustments amount to less than an annualized increase of
2 the applicable percentage provided in subsection (4), then the recipient's benefit must be adjusted by an amount
3 that will provide a total annualized increase of the applicable percentage in the benefit paid since the preceding
4 January.

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

9 (c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the
10 original payee that occurred since the preceding January, the new recipient's monthly benefit must be increased
11 to the applicable percentage provided in subsection (5) more than the amount that the contingent annuitant would
12 have received had the contingent annuitant received a benefit during the preceding January.

13 (3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the
14 minimum annual benefit adjustment provided for in this section if the benefit's commencement date is at least
15 12 months prior to January 1 of the year in which the adjustment is to be made.

16 (4) (a) The applicable percentage is 3% for benefit recipients hired or assuming office:

17 (i) before July 1, 2007; or

18 (ii) on or after July 1, 2007, if the benefit recipient is an existing member of a benefit plan for which the
19 applicable percentage is 3%.

20 (b) Except as provided in subsection (4)(a)(ii), the applicable percentage is 1.5% for benefit recipients
21 hired or assuming office on or after July 1, 2007.

22 (5) (a) The applicable percentage rate for a contingent annuitant described in subsection (2)(c) is 3%
23 if the original payee:

24 (i) was hired or assumed office before July 1, 2007; or

25 (ii) was an existing member of a benefit plan for which the applicable percentage is 3%.

26 (b) Except as provided in subsection (5)(a)(ii), the applicable percentage rate for a contingent annuitant
27 described in subsection (2)(c) is 1.5% if the original payee was hired or assumed office on or after July 1, 2007.

28 (6) The board shall adopt rules to administer the provisions of this section."
29

30 **Section 62.** Section 19-9-207, MCA, is amended to read:

1 **"19-9-207. Election to join retirement system -- transfer of assets -- no further contracting.** (1)
2 Cities other than those participating in the statewide police reserve fund administered by the board in accordance
3 with Chapter 335, Laws of 1974, as of June 30, 1977, may elect to join the retirement system by passing an
4 ordinance stating the election and the consent of the city to be bound by the provisions of this retirement system.
5 Upon the enactment of an ordinance, the provisions of this retirement system become applicable to the city. Any
6 city enacting an election ordinance shall send a certified copy of the ordinance to the board and shall, as soon
7 as possible, deposit all cash and securities held by it in its local police reserve or retirement fund into the
8 municipal police officers' pension trust fund. The value of the securities must be determined by the board.

9 (2) The trustees or other administrative head of the local plan as of the effective date of the election shall
10 certify the proportion, if any, of the funds of the plan that represents the accumulated contributions of the active
11 members and the relative shares of the members as of that date. The shares must be charged to the employer
12 and credited to the respective members in the retirement system and administered as if the contributions had
13 been made during membership in the retirement system. Any excess of employer credits over charges under this
14 section must be offset, with interest, against future required employer contributions for a period determined by
15 the board. Any excess of employer charges over credits under this section are payable by the employer, with
16 interest, for a period of 30 years or less as determined by the board.

17 (3) The board may not enter into a new contract for an employer's participation in the retirement system
18 under this section on or after July 1, 2013."

19

20 **Section 63.** Section 19-9-301, MCA, is amended to read:

21 **"19-9-301. Active membership -- inactive vested member -- inactive nonvested member. Except**
22 as provided in [section 33], the following provisions apply:

23 (1) A police officer becomes an active member of the retirement system:
24 (a) on the date the police officer's service with an employer commences;
25 (b) on July 1, 1977, if the police officer is employed by an employer on that date; or
26 (c) in the case of an employer that elects to join the retirement system, as provided in 19-9-207, on the
27 effective date of the election if the police officer is employed by the employer on that date. A person who is a
28 member of the public employees' retirement system on the date of the employer's election may remain in the
29 public employees' retirement system or may elect to become a member of the municipal police officers' retirement
30 system by filing an irrevocable written election with the board no later than 90 days after the date of the

1 employer's election.

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

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

6 (4) (a) An inactive member with at least 5 years of membership service is an inactive vested member
7 and retains the right to purchase service credit and to receive a retirement benefit under the provisions of this
8 chapter.

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

12 (5) (a) An inactive member with less than 5 years of membership service is an inactive nonvested
13 member and is not eligible for any benefits from the retirement system.

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

17 **Section 64.** Section 19-9-1009, MCA, is amended to read:

18 **"19-9-1009. Guaranteed annual benefit adjustment -- suspension.** Except to the extent that benefit
19 adjustments are suspended as provided in [section 11], the following provisions apply:

20 (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during
21 the preceding January to each recipient who is eligible under subsection (3) must be increased by 3%.

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

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

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

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

3 (b) the member either:

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

5 (ii) filed a voluntary, irrevocable election to be covered under this section. The election must be filed with
6 the board prior to January 1, 1998, and requires an active member to pay an increased contribution rate from July
7 1, 1997, forward. A retired member or the member's survivor who is receiving a monthly benefit before July 1,
8 1997, shall also file the voluntary, irrevocable election no later than January 1, 1998, to be covered under this
9 section.

10 (4) The board shall adopt rules to administer the provisions of this section."
11

12 **Section 65.** Section 19-9-1010, MCA, is amended to read:

13 **"19-9-1010. Original election -- guaranteed annual benefit adjustment -- suspension.** Except to the
14 extent that benefit adjustments are suspended as provided in [section 11], the following provisions apply:

15 (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during
16 the preceding January to each recipient who is eligible under subsection (3) must be increased by 3%.

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

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

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

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

28 (b) the member either:

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

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

1 (A) must be filed with the board prior to December 1, 1999; and
2 (B) requires an active member to pay an increased or revised contribution rate from January 1, 2000,
3 forward.

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

5 (5) The decision of a member who elected to participate under 19-9-1009 remains valid. The decision
6 of a member who elected not to participate under 19-9-1009 may be reversed under this section."

7

8 **Section 66.** Section 19-9-1013, MCA, is amended to read:

9 **"19-9-1013. Extended election -- guaranteed annual benefit adjustment -- suspension.** Except to
10 the extent that benefit adjustments are suspended as provided in [section 11], the following provisions apply:

11 (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during
12 the preceding January to each recipient who is eligible under subsection (3) must be increased by 3%.

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

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

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

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

24 (b) the member either:

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

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

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

28 (B) requires an active member to pay an increased or revised contribution rate from January 1, 2002,
29 forward.

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

1 (5) The decision of a member who elected to participate under 19-9-1009 or 19-9-1010 remains valid.
2 The decision of a member who elected not to participate under 19-9-1009 and 19-9-1010 may be reversed under
3 this section."

4

5 **Section 67.** Section 19-13-210, MCA, is amended to read:

6 **"19-13-210. Participation in retirement system.** Except as provided in [section 33], the following
7 provisions apply:

8 (1) Cities of the first and second class that employ full-paid firefighters shall participate in the retirement
9 system. If a city of the first or second class is reduced to a city of the third class or a town under 7-1-4118, it shall
10 continue to participate in the retirement system as long as it has retired firefighters or survivors eligible to receive
11 retirement benefits.

12 (2) Firefighters hired by the Montana air national guard on or after October 1, 2001, or on or after the
13 date of the execution of an agreement between the department of military affairs and the board, whichever is
14 later, shall participate in the retirement system.

15 (3) (a) A city that is not covered under subsection (1) and that has full-paid firefighters covered by the
16 public employees' retirement system and any rural fire district department with full-paid firefighters covered by
17 the public employees' retirement system may elect to be covered under the retirement system as provided in
18 19-13-211.

19 (b) An election by a city fire department to be covered by the retirement system must be made through
20 adoption of an ordinance stating that the governing body of the city agrees to be bound by the provisions of the
21 retirement system.

22 (c) A similar election may be made by a rural fire district through adoption of a resolution stating that the
23 governing body of the fire district agrees to be bound by the provisions of the retirement system.

24 (d) The ordinance or resolution must specify the effective date of the election. The provisions of the
25 retirement system become applicable on the effective date specified in the adopted ordinance or resolution. A
26 certified copy of the ordinance or resolution must be provided to the board.

27 (4) The following are the terms and conditions of an election to join the retirement system pursuant to
28 subsection (3):

29 (a) Each firefighter employed by the fire department before the effective date of the election must be
30 given 90 days from the effective date of the election to make an individual, one-time, irrevocable election to

1 remain in the public employees' retirement system or to join the retirement system. Failure to make an election
2 under this subsection (4)(a) must be considered an election to remain in the public employees' retirement system.

3 (b) Each firefighter employed by the fire department who is hired on or after the effective date of the
4 election must be covered by the retirement system.

5 (c) A firefighter electing to join the retirement system may retain prior service in the public employees'
6 retirement system or purchase the prior service and transfer that prior service to the retirement system as
7 provided for in 19-2-715."

8

9 **Section 68.** Section 19-13-211, MCA, is amended to read:

10 **"19-13-211. Election to join retirement system -- transfer of assets.** (1) Except for cities with only
11 volunteer firefighters, a city other than one described in 19-13-210 may, after July 1, 1981, and before [the
12 effective date of this section], elect to join the retirement system by passing an ordinance stating the election and
13 the consent of the city to be bound by the provisions of this retirement system. The fire department relief
14 association of the city may pass a resolution to the same effect. Upon the enactment of the ordinance and
15 passage of the resolution, the provisions of this retirement system become applicable to the city. Any city that
16 enacts an election ordinance and in which the fire department relief association passes a resolution shall send
17 certified copies to the board and shall, as soon as possible, deposit into the pension trust fund all cash and
18 securities held by its fire department relief association. The value of the securities must be determined by the
19 board.

20 (2) The board of trustees of the fire department relief association as of the effective date of the election
21 shall certify the proportion, if any, of the funds of the association that represents the accumulated contributions
22 of the active members and the relative shares of the members as of that date. Following the transfer of the cash
23 and securities required by subsection (1) and the certification required by this subsection, the fire department
24 relief association may conclude its affairs. The shares of the members must be charged to the employer and
25 credited to the respective members in the retirement system and administered as if the contributions had been
26 made during membership in the retirement system. Any excess of employer credits over charges under this
27 section must be offset, with interest, against future required employer contributions. Any excess of employer
28 charges over credits under this section are payable by the employer, with interest, on a basis determined by the
29 procedure described in 19-13-213."

30

1 **Section 69.** Section 19-13-301, MCA, is amended to read:

2 **"19-13-301. Active membership -- inactive vested member -- inactive nonvested member.** Except
3 as provided in [section 33], the following provisions apply:

4 (1) A full-paid firefighter becomes an active member of the retirement system:

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

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

7 (c) in the case of an employer who elects to join the retirement system, as provided in 19-13-211, on the
8 effective date of the election if the firefighter is employed by the employer on that date.

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

11 (3) A part-paid firefighter may elect to become a member of the retirement system by filing an irrevocable
12 written election with the board within 90 days of becoming a part-paid firefighter.

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

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

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

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

18 (5) (a) An inactive member with at least 5 years of membership service is an inactive vested member
19 and retains the right to purchase service credit and to receive a retirement benefit under the provisions of this
20 chapter.

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

24 (6) (a) An inactive member with less than 5 years of membership service is an inactive nonvested
25 member and is not eligible for any benefits from the retirement system.

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

28

29 **Section 70.** Section 19-13-1010, MCA, is amended to read:

30 **"19-13-1010. Guaranteed annual benefit adjustment -- suspension.** Except to the extent that benefit

1 adjustments are suspended as provided in [section 11], the following provisions apply:

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

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

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

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

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

15 (b) the member either:

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

17 (ii) filed a voluntary, irrevocable election to be covered under this section. The election must be filed with
18 the board prior to January 1, 1998, and requires an active member to pay an increased contribution rate from July
19 1, 1997, forward. A retired member or the member's survivor who is receiving a monthly benefit before July 1,
20 1997, shall also file the voluntary, irrevocable election no later than January 1, 1998, to be covered under this
21 section.

22 (4) The board shall adopt rules to administer the provisions of this section."
23

24 **Section 71.** Section 19-13-1011, MCA, is amended to read:

25 **"19-13-1011. Election -- guaranteed annual benefit adjustment -- suspension.** Except to the extent
26 that benefit adjustments are suspended as provided in [section 11], the following provisions apply:

27 (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during
28 the preceding January to each recipient who is eligible under subsection (3) must be increased by 3%.

29 (2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more
30 adjustments not provided for in this section and the adjustments amount to less than a 3% annualized increase,

1 then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 3% in
2 the benefit paid since the preceding January.

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

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

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

10 (b) the member either:

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

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

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

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

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

17 (5) The decision of a member who elected to participate under 19-13-1010 remains valid. The decision
18 of a member who elected not to participate under 19-13-1010 may be reversed under this section."

19

20 **Section 72.** Section 19-17-102, MCA, is amended to read:

21 **"19-17-102. Definitions.** Unless the context requires otherwise, the following definitions apply in this
22 chapter:

23 (1) "Active member" means a ~~volunteer firefighter~~ member credited with service under this chapter as
24 provided in 19-17-108 during the most recently reportable fiscal year.

25 (2) "Allowance" means a total monetary and gift amount that is available to a volunteer firefighter from
26 a fire company pursuant to 19-17-110.

27 (3) "Benefit" means the pension, disability, or survivorship benefit provided under this chapter.

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

29 (5) "Claim" means a request from a member, surviving spouse, or dependent child for payment of
30 medical or funeral expenses.

1 (6) "Compensation" means remuneration for services rendered as a firefighter from the fire company
2 requesting credit for that firefighter.

3 (7) "Dependent child" means a child who is unmarried, who is under 18 years of age, and who is the child
4 of a deceased member.

5 (8) "Defined contribution retirement plan" means the retirement plan established in 19-3-2102.

6 ~~(9)~~(9) "Designated official" means a representative of a fire company appointed by the fire chief to
7 perform specified actions and includes but is not limited to a fire company supervisor, a fire company secretary,
8 and a fire company presiding officer as described in 7-33-2312.

9 ~~(9)~~(10) "Disability" or "permanent total disability" means a duty-related injury resulting in permanent total
10 disability as defined in 39-71-116.

11 ~~(10)~~(11) "Fire company" means an organization of volunteer firefighters created under the authority of
12 a governing board or commission to serve an unincorporated area, town, or village.

13 ~~(11)~~(12) "Fiscal year" means the 12-month period that begins on July 1 and ends on June 30 of the
14 following year.

15 ~~(12)~~(13) "Inactive member" means a member not credited with service under this chapter as provided
16 in 19-17-108 during the most recently reportable fiscal year.

17 ~~(13)~~(14) "Member" or "tier one member" means a volunteer firefighter who has service credited under
18 this chapter prior to [the effective date of this section].

19 ~~(14)~~(15) "Pension benefit" means a full or partial payment for service earned as a volunteer firefighter
20 and does not include payment for disability.

21 ~~(15)~~(16) "Pension trust fund" means the volunteer firefighters' pension trust fund established to pay claims
22 and benefits under this chapter.

23 ~~(16)~~(17) "Reimbursed" means the return by a fire company of an equivalent amount of money expended
24 by a member for the benefit of the fire company.

25 ~~(17)~~(18) "Retiree" or "retired member" means a member who is receiving full or partial pension benefits
26 or disability benefits from the pension trust fund.

27 ~~(18)~~(19) "Supplemental insurance" means insurance that is carried by a fire company for the purposes
28 of providing disability or death benefits. Supplemental insurance does not include any insurance required by law,
29 such as workers' compensation insurance.

30 ~~(19)~~(20) "Surviving spouse" means the spouse married to a member when the member dies.

1 ~~(20)~~(21) "Survivorship benefit" means the monthly benefit paid to the surviving spouse or dependent child
2 of a deceased member.

3 (22) "Tier two member" means a volunteer firefighter for whom all service credited under this chapter was
4 credited on or after [the effective date of this section].

5 ~~(21)~~(23) "Training" means instruction pertaining to firefighting that is supervised by the chief or a
6 designated official.

7 ~~(22)~~(24) "Volunteer firefighter" means a person who is a member of an eligible fire company and is not
8 compensated for services as a firefighter."

9

10 **Section 73.** Section 19-17-301, MCA, is amended to read:

11 "**19-17-301. Fire insurance premium tax to be paid into pension trust fund and defined**
12 **contribution accounts.** (1) The state auditor shall annually pay from the general fund to the pension trust fund
13 board a sum equivalent to 5% of the premium taxes collected from insurers authorized to effect insurance against
14 risks enumerated in 50-3-109. The sum must be computed before the amounts provided for by 19-13-604; and
15 19-18-512 are deducted.

16 (2) Beginning [the effective date of this section], as soon as possible after July 1 of each year, the board
17 shall:

18 (a) divide the amount received under subsection (1) by the total number of active tier one and two
19 members;

20 (b) allocate to the pension trust fund an amount proportionate to the total number of active tier one
21 members; and

22 (c) allocate to the account of each member of the defined contribution retirement plan an amount
23 proportionate to the total number of active tier two members.

24 (3) The money in the pension trust fund must be used for the payment of claims, benefits, and
25 administrative costs as provided in this chapter for tier one members.

26 (4) The money paid from the general fund under this section is statutorily appropriated, as provided in
27 17-7-502, to the pension trust fund for tier one members and to the board for tier two members."

28

29 **Section 74.** Section 19-20-201, MCA, is amended to read:

30 "**19-20-201. Administration by retirement board.** (1) The retirement board shall administer and

1 operate the retirement system within the limitations prescribed by this chapter, and it is the duty of the retirement
2 board to:

3 (a) establish rules necessary for the proper administration and operation of the retirement system;

4 (b) approve or disapprove all expenditures necessary for the proper operation of the retirement system;

5 (c) keep a record of all its proceedings, which must be open to public inspection;

6 (d) submit a report to the office of budget and program planning detailing the fiscal transactions for the
7 2 fiscal years immediately preceding the report due date, the amount of the accumulated cash and securities of
8 the retirement system, and the last fiscal year balance sheet showing the assets and liabilities of the retirement
9 system;

10 (e) keep in convenient form the data that is necessary for actuarial valuation of the various funds of the
11 retirement system and for checking the experience of the retirement system;

12 (f) prepare an annual valuation of the assets and liabilities of the retirement system that includes an
13 analysis of how market performance is affecting the actuarial funding of the retirement system;

14 (g) prescribe a form for membership application that will provide adequate and necessary information
15 for the proper operation of the retirement system;

16 (h) annually determine the rate of regular interest as prescribed in 19-20-501;

17 (i) establish and maintain the funds of the retirement system in accordance with the provisions of part
18 6 of this chapter; and

19 (j) perform other duties and functions as are required to properly administer and operate the retirement
20 system.

21 (2) The annual actuarial valuation of the system must also include a projection of the flat dollar amount
22 that the legislature would need to appropriate under [section 10] each fiscal year to ensure that the system is
23 100% funded by 2043.

24 ~~(2)~~(3) In discharging its duties, the board, or an authorized representative of the board, may conduct
25 hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue
26 subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence,
27 memoranda, and other records. Subpoenas must be issued and enforced pursuant to 2-4-104.

28 ~~(3)~~(4) The board may send retirement-related material to employers and the campuses of the Montana
29 university system for delivery to employees. To facilitate distribution, employers and those campuses shall each
30 provide the board with a point of contact who is responsible for distribution of the material provided by the board.

1 ~~(4)~~(5) The board shall make available to the legislature pursuant to 5-11-210 copies of the annual
2 actuarial valuation and report required pursuant to subsections (1)(d) and (1)(f)."

3

4 **Section 75.** Section 19-20-302, MCA, is amended to read:

5 **"19-20-302. Active membership.** Except as provided in [section 33], the following provisions apply:

6 (1) Unless otherwise provided by this chapter, the following persons employed by an employer must be
7 active members of the retirement system:

8 (a) a person who is a teacher, principal, or district superintendent as defined in 20-1-101;

9 (b) a person who is an administrative officer or a member of the instructional or scientific staff of a unit
10 of the Montana university system and who has not elected or is not required to participate in the optional
11 retirement program under Title 19, chapter 21;

12 (c) a person employed as a speech-language pathologist, school nurse, professionally qualified person
13 as defined in 20-7-901, paraprofessional who provides instructional support, dean of students, or school
14 psychologist;

15 (d) a person employed in a teaching or an educational services capacity by the office of a county
16 superintendent, an education cooperative, a public institution of the state of Montana, the Montana state school
17 for the deaf and blind, or a school district;

18 (e) a person who is an administrative officer or a member of the instructional staff of the board of public
19 education;

20 (f) the superintendent of public instruction or a person employed as a teacher or in an educational
21 services capacity by the office of public instruction;

22 (g) except as provided in subsection (2), a person elected to the office of county superintendent of
23 schools;

24 (h) a person who is an administrative officer or a member of the instructional or scientific staff of a
25 community college; and

26 (i) a person employed in a nonclerical position and who is reported on an employer's annual data
27 collection report submitted to the office of public instruction.

28 (2) A retired member elected to the office of county superintendent of schools or appointed to complete
29 the term of an elected county superintendent of schools after July 1, 1995, is not eligible for optional membership
30 in the public employees' retirement system under the provisions of 19-3-412 and shall, within 30 days of taking

1 office, file an irrevocable written election to become or to not become an active member of the teachers'
2 retirement system. The retirement system membership of an elected county superintendent of schools as of June
3 30, 1995, must remain unchanged for as long as the person continues to serve in the capacity of county
4 superintendent of schools.

5 (3) In order to be eligible for active membership, a person described in subsection (1) or (2) must:

6 (a) be employed in the capacity prescribed for the person's eligibility for at least 30 days in any fiscal
7 year; and

8 (b) have the compensation for the person's creditable service totally paid by an employer.

9 (4) (a) A substitute teacher or a part-time teacher's aide:

10 (i) shall file an irrevocable written election determining whether to become an active member of the
11 retirement system on the first day of employment; or

12 (ii) is required to become an active member of the retirement system after completing 210 hours of
13 employment in any fiscal year if the substitute teacher or part-time teacher's aide has not elected membership
14 under subsection (4)(a)(i).

15 (b) Once a part-time teacher's aide becomes a member, the aide is required to remain an active member
16 as long as the aide is employed in that capacity. Once a substitute teacher becomes a member, the substitute
17 teacher is required to remain a member as long as the teacher is available for employment in that capacity.

18 (c) The employer shall give written notification to a substitute teacher or part-time teacher's aide on the
19 first day of employment of the option to elect membership under subsection (4)(a)(i).

20 (d) If a substitute teacher or part-time teacher's aide declines to elect membership during the election
21 period, the teacher or part-time teacher's aide shall file a written statement with the employer waiving membership
22 and the employer shall retain the statement.

23 (5) A school district clerk or business official may not become a member of the teachers' retirement
24 system. A school district clerk or business official who is a member of the system on July 1, 2001, is required to
25 remain an active member of the system while employed in that capacity, and any postretirement earnings from
26 employment as a school district clerk or school business official are subject to the limit on earnings provided in
27 19-20-731.

28 (6) At any time that a person's eligibility to become a member of the retirement system is in doubt, the
29 retirement board shall determine the person's eligibility for membership. All persons in similar circumstances must
30 be treated alike.

1 (7) As used in this section, "part-time teacher's aide" means an individual who works less than 7 hours
2 a day assisting a certified teacher in a classroom.

3 (8) (a) An active member of the system concurrently employed in a position identified in subsection (1)(b)
4 may not elect to participate in the optional retirement program under Title 19, chapter 21.

5 (b) An employee of the Montana university system who is a participant in the optional retirement program
6 under Title 19, chapter 21, and who is concurrently employed in a position identified in subsections (1)(a) or (1)(c)
7 through (1)(i) is ineligible to be an active member of this system."

8

9 **Section 76.** Section 19-20-417, MCA, is amended to read:

10 **"19-20-417. Credit for substitute teaching service, teacher's aide service, or other service not**
11 **reported.** (1) A substitute teacher or part-time teacher's aide who did not elect membership under 19-20-302 and
12 who subsequently becomes a member must be awarded creditable service for the service not reported if the
13 member contributes the employee and employer contributions that would have been made if the member had
14 been a member from the date of hire, plus interest.

15 (2) A person who was employed in a capacity that would have been eligible for membership under
16 19-20-302 except for the fact that the person was employed for less than 30 days and who subsequently
17 becomes an active member under 19-20-302 may purchase this service if the person contributes the employee
18 and employer contributions that would have been made if the person had been a member from the date of hire,
19 plus interest.

20 (3) If an employer fails to report a person who was eligible for membership under 19-20-302, the
21 employee and employer shall make the contributions required by this chapter, plus interest.

22 (4) The contributions and interest may be made in a lump-sum payment or in installments as agreed to
23 between the person and the board."

24

25 **Section 77.** Section 19-20-602, MCA, is amended to read:

26 **"19-20-602. Annuity savings account -- member's contribution.** (1) The annuity savings account is
27 an account in which the contributions for the members to provide for their retirement allowance or benefits must
28 be accumulated in individual accounts for each member. The normal contribution of each member is ~~7.15%~~
29 8.15% of the member's earned compensation, which must be reduced to 7.15% on January 1 following an annual
30 actuarial valuation showing that the system is at least 100% funded.

1 (2) Contributions to and payments from the annuity savings account must be made in the following
2 manner:

3 (a) Each employer, pursuant to section 414(h)(2) of the Internal Revenue Code:

4 (i) shall pick up and pay the contributions that would be payable by the member under this subsection
5 (2) for service rendered after June 30, 1985;

6 (ii) shall pick up and pay the contributions that would be paid in the manner provided in 19-20-716; and

7 (iii) may pick up and pay the contributions that would be payable by the member pursuant to 19-20-415.

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

12 (c) The member's contributions picked up by the employer must be payable from the same source as
13 is used to pay compensation to the member and must be included in the member's earned compensation as
14 defined in 19-20-101. The employer shall deduct from the member's compensation an amount equal to the
15 amount of the member's contributions picked up by the employer and remit the total of the contributions to the
16 retirement board.

17 (d) The deductions must be made notwithstanding that the minimum compensation provided by law for
18 a member may be reduced by the deductions. Each member is considered to consent to the deductions
19 prescribed by this section, and payment of salary or compensation less the deductions is a complete discharge
20 of all claims for the services rendered by the member during the period covered by the payment, except as to the
21 benefits provided by the retirement system.

22 (3) The accumulated contributions of a member withdrawn by the member or paid to the member's estate
23 or to the member's designated beneficiary in event of the member's death must be paid from the annuity savings
24 account. Upon the retirement of a member, the member's accumulated contributions must be transferred from
25 the annuity savings account to the pension accumulation account."
26

27 **Section 78.** Section 19-20-719, MCA, is amended to read:

28 **"19-20-719. Guaranteed annual benefit adjustment -- rulemaking -- suspension.** (1) Except as
29 provided in subsection (2), the following provisions apply:

30 (a) On January 1 of each year, the retirement allowance payable to each recipient who is eligible under

1 subsection (2) must be increased by 1.5%.

2 ~~(2)(b)~~ A benefit recipient is eligible for and must receive the annual benefit adjustment provided for in
3 this section if the retiree has received at least 36 monthly retirement benefit payments prior to January 1 of the
4 year in which the adjustment is to be made.

5 (2) Beginning January 1, 2014, benefit adjustments under this section are suspended UNTIL THE
6 RETIREMENT SYSTEM AND ALL OF THE RETIREMENT SYSTEMS UNDER CHAPTERS 3, 5 THROUGH 9, AND 13 OF THIS TITLE
7 ARE 100% FUNDED AS OF EACH SYSTEM'S LATEST ANNUAL ACTUARIAL VALUATION."

8

9 **Section 79.** Section 19-21-214, MCA, is amended to read:

10 **"19-21-214. Contributions and allocations for employees in positions covered under the public**
11 **employees' retirement system.** ~~(4)~~ The contribution rates for employees in positions covered under the public
12 employees' retirement system who ~~elect~~ elected to become program members pursuant to 19-3-2112 are as
13 provided in [section 41]. follows:

14 ~~—— (a) the member's contribution rate must be the rate provided in 19-3-315; and~~

15 ~~—— (b) the employer's contribution rate must be the rate provided in 19-3-316.~~

16 ~~—— (2) Subject to subsection (3), of the employer's contribution:~~

17 ~~—— (a) an amount equal to:~~

18 ~~—— (i) 4.49% of compensation must be allocated to the participant's program account;~~

19 ~~—— (ii) 2.37% of compensation must be allocated to the defined benefit plan under the public employees'~~
20 ~~retirement system as the plan choice rate; and~~

21 ~~—— (iii) 0.04% of compensation must be allocated to the education fund pursuant to 19-3-112(1)(b); and~~

22 ~~—— (b) on July 1, 2009, continuing until the additional employer contributions terminate pursuant to 19-3-316,~~
23 ~~0.27% of compensation must be allocated to the defined benefit plan to eliminate the plan choice rate unfunded~~
24 ~~actuarial liability.~~

25 ~~—— (3) The allocations under subsection (2) are subject to adjustment by the public employees' retirement~~
26 ~~board, but only as described in and in a manner consistent with the express provisions of 19-3-2121."~~

27

28 **Section 80.** Section 20-9-501, MCA, is amended to read:

29 **"20-9-501. Retirement costs and retirement fund.** (1) The trustees of a district or the management
30 board of a cooperative employing personnel who are members of the teachers' retirement system or the public

1 employees' retirement system, who are covered by unemployment insurance, or who are covered by any federal
2 social security system requiring employer contributions shall establish a retirement fund for the purposes of
3 budgeting and paying the employer's contributions to the systems as provided in subsection (2)(a). The district's
4 or the cooperative's contribution for each employee who is a member of the teachers' retirement system must
5 be calculated in accordance with Title 19, chapter 20, part 6. The district's or the cooperative's contribution for
6 each employee who is a member of the public employees' retirement system must be calculated in accordance
7 with 19-3-316. The district's or the cooperative's contribution for each employee who is a member of the defined
8 contribution retirement plan established in 19-3-2102 must be calculated in accordance with [sections 41 and 42].
9 The district's or the cooperative's contributions for each employee covered by any federal social security system
10 must be paid in accordance with federal law and regulation. The district's or the cooperative's contribution for
11 each employee who is covered by unemployment insurance must be paid in accordance with Title 39, chapter
12 51, part 11.

13 (2) (a) The district or the cooperative shall pay the employer's contributions to the retirement, federal
14 social security, and unemployment insurance systems from the retirement fund for the following:

15 (i) a district employee whose salary and health-related benefits, if any health-related benefits are
16 provided to the employee, are paid from state or local funding sources;

17 (ii) a cooperative employee whose salary and health-related benefits, if any health-related benefits are
18 provided to the employee, are paid from the cooperative's interlocal cooperative fund if the fund is supported
19 solely from districts' general funds and state special education allowable cost payments, pursuant to 20-9-321,
20 or are paid from the miscellaneous programs fund, provided for in 20-9-507, from money received from the
21 medicaid program, pursuant to 53-6-101;

22 (iii) a district employee whose salary and health-related benefits, if any health-related benefits are
23 provided to the employee, are paid from the district's school food services fund provided for in 20-10-204; and

24 (iv) a district employee whose salary and health-related benefits, if any health-related benefits are
25 provided to the employee, are paid from the district impact aid fund, pursuant to 20-9-514.

26 (b) For an employee whose benefits are not paid from the retirement fund, the district or the cooperative
27 shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance
28 systems from the funding source that pays the employee's salary.

29 (3) The trustees of a district required to make a contribution to a system referred to in subsection (1) shall
30 include in the retirement fund of the final budget the estimated amount of the employer's contribution. After the

1 final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the systems
2 in accordance with the financial administration provisions of this title.

3 (4) When the final retirement fund budget has been adopted, the county superintendent shall establish
4 the levy requirement by:

5 (a) determining the sum of the money available to reduce the retirement fund levy requirement by adding:

6 (i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal
7 year;

8 (ii) oil and natural gas production taxes;

9 (iii) coal gross proceeds taxes under 15-23-703;

10 (iv) any fund balance available for reappropriation as determined by subtracting the amount of the
11 end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal
12 year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating
13 reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must
14 be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund
15 budget.

16 (v) property tax reimbursements made pursuant to 15-1-123(6);

17 (vi) any other revenue anticipated that may be realized in the retirement fund during the ensuing school
18 fiscal year, excluding any guaranteed tax base aid;

19 (b) notwithstanding the provisions of subsection (9), subtracting the money available for reduction of the
20 levy requirement, as determined in subsection (4)(a), from the budgeted amount for expenditures in the final
21 retirement fund budget.

22 (5) The county superintendent shall:

23 (a) total the net retirement fund levy requirements separately for all elementary school districts, all high
24 school districts, and all community college districts of the county, including any prorated joint district or special
25 education cooperative agreement levy requirements; and

26 (b) report each levy requirement to the county commissioners by the later of the first Tuesday in
27 September or within 30 calendar days after receiving certified taxable values as the respective county levy
28 requirements for elementary district, high school district, and community college district retirement funds.

29 (6) The county commissioners shall fix and set the county levy or district levy in accordance with
30 20-9-142.

1 (7) The net retirement fund levy requirement for a joint elementary district or a joint high school district
 2 must be prorated to each county in which a part of the district is located in the same proportion as the district ANB
 3 of the joint district is distributed by pupil residence in each county. The county superintendents of the counties
 4 affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.

5 (8) The net retirement fund levy requirement for districts that are members of special education
 6 cooperative agreements must be prorated to each county in which the district is located in the same proportion
 7 as the special education cooperative budget is prorated to the member school districts. The county
 8 superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each
 9 county in the same manner as provided in 20-9-151, and the county commissioners shall fix and levy the net
 10 retirement fund levy for each county in the same manner as provided in 20-9-152.

11 (9) The county superintendent shall calculate the number of mills to be levied on the taxable property
 12 in the county to finance the retirement fund net levy requirement by dividing the amount determined in subsection
 13 (5)(a) by the sum of:

14 (a) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified
 15 by the superintendent of public instruction; and

16 (b) the taxable valuation of the district divided by 1,000.

17 (10) The levy for a community college district may be applied only to property within the district.

18 (11) The county superintendent of each county shall submit a report of the revenue amounts used to
 19 establish the levy requirements for county school funds supporting elementary and high school district retirement
 20 obligations to the superintendent of public instruction on or before September 15. The report must be completed
 21 on forms supplied by the superintendent of public instruction."
 22

23 **Section 81.** Section 25-13-608, MCA, is amended to read:

24 **"25-13-608. Property exempt without limitation -- exceptions.** (1) A judgment debtor is entitled to
 25 exemption from execution of the following:

26 (a) professionally prescribed health aids for the judgment debtor or a dependent of the judgment debtor;

27 (b) benefits the judgment debtor has received or is entitled to receive under federal social security or
 28 local public assistance legislation, except as provided in subsection (2);

29 (c) veterans' benefits, except as provided in subsection (2);

30 (d) disability or illness benefits, except as provided in subsection (2);

1 (e) except as provided in subsection (2), individual retirement accounts, as defined in 26 U.S.C. 408(a),
 2 to the extent of deductible contributions made before the suit resulting in judgment was filed and the earnings on
 3 those contributions, and Roth individual retirement accounts, as defined in 26 U.S.C. 408A, to the extent of
 4 qualified contributions made before the suit resulting in judgment was filed and the earnings on those
 5 contributions;

6 (f) benefits paid or payable for medical, surgical, or hospital care to the extent they are used or will be
 7 used to pay for the care;

8 (g) maintenance and child support;

9 (h) a burial plot for the judgment debtor and the debtor's family;

10 (i) benefits or payments paid or payable from a retirement system or plan within Title 19, chapters 3, 5
 11 through 9, ~~and~~ 13, and [sections 27, 30, 32, 33, 39 through 45, and 48], as provided by 19-2-1004;

12 (j) benefits or payments paid or payable from a retirement system or plan within Title 19, chapter 20, as
 13 provided by 19-20-706; and

14 (k) the judgment debtor's interest in any unmatured life insurance contracts owned by the judgment
 15 debtor.

16 (2) Veterans' and social security legislation benefits based upon remuneration for employment, disability
 17 benefits, and assets of individual retirement accounts are not exempt from execution if the debt for which
 18 execution is levied is for:

19 (a) child support; or

20 (b) maintenance to be paid to a spouse or former spouse."

21

22 **Section 82.** Section 44-1-518, MCA, is amended to read:

23 **"44-1-518. Contribution for retirement -- length of service credit -- transfer of retirement**
 24 **contributions.** (1) When an officer receives compensation under 44-1-511, the officer's contribution for retirement
 25 under 19-6-402 or [section 33] must be paid on the compensation received under 44-1-511 and the state's
 26 contribution for retirement under 19-6-404 must be paid on the compensation received under 44-1-511.

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

29 (3) When a disabled officer who qualifies for benefits under 44-1-511 accepts a transfer under 44-1-515
 30 to a nonhighway patrol position within the department of justice that is covered under the Public Employees'

1 Retirement System Act, all or any portion of the officer's length of service credited with the highway patrol officers'
2 retirement system must be transferred to the public employees' retirement system according to 19-2-715."

3
4 **NEW SECTION. Section 83. Repealer.** The following sections of the Montana Code Annotated are
5 repealed:

- 6 19-3-202. Request by individual employee for employer to participate.
- 7 19-3-522. Nonapplication of part to defined contribution plan.
- 8 19-3-909. Nonapplication of part to defined contribution plan.
- 9 19-3-1016. Nonapplication of part to defined contribution plan.
- 10 19-3-1112. Nonapplication of part to defined contribution plan.
- 11 19-3-1212. Nonapplication of part to defined contribution plan.
- 12 19-3-1502. Nonapplication of part to defined contribution plan.
- 13 19-3-1607. Nonapplication of part to defined contribution plan.
- 14 19-3-2103. Legislative intent.
- 15 19-3-2113. Reinstatement of plan membership -- purchase of prior service credit in defined benefit plan.
- 16 19-3-2117. Allocation of contributions and forfeitures.
- 17 19-3-2121. Determination and adjustment of plan choice rate and contribution allocations.
- 18 19-17-205. Payments to fire companies maintaining supplemental insurance.

19
20 **NEW SECTION. Section 84. Directions to code commissioner.** (1) The code commissioner is
21 instructed to renumber sections currently in Title 19, chapter 3, part 21, into a new chapter in Title 19.

22 (2) The code commissioner is instructed to change all internal references within and to the renumbered
23 sections in the Montana Code Annotated, including within sections enacted or amended by the 2013 legislature,
24 to reflect the new section numbers assigned pursuant to this section.

25 (3) Any section enacted by the 2013 legislature that is to be codified in Title 19, chapter 3, part 21, must
26 be codified as an integral part of the new chapter, and the provisions of the new chapter apply to the enacted
27 sections.

28
29 **NEW SECTION. Section 85. Codification instruction.** (1) [Sections 10 and 11] are intended to be
30 codified as an integral part of Title 19, chapter 2, and the provisions of Title 19, chapter 2, apply to [sections 10

1 and 11].

2 (2) [Sections 27, 30, 32, 33, 39 through 45, and 48] are intended to be codified as an integral part of the
3 new chapter in Title 19 provided for in [section ~~85~~ 84], and the provisions of Title 19 apply to [sections 27, 30, 32,
4 33, 39 through 45, and 48].

5
6 NEW SECTION. Section 86. Saving clause. [This act] does not affect rights and duties that matured,
7 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

8
9 NEW SECTION. Section 87. Severability -- NONSEVERABILITY. ~~If (1) EXCEPT AS PROVIDED IN SUBSECTION~~
10 ~~(2), IF~~ a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part
11 of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are
12 severable from the invalid applications.

13 ~~(2) IF [SECTION 11] OR 19-20-719(2), OR BOTH, ARE INVALID IN ONE OR MORE OF THEIR APPLICATIONS, [SECTION~~
14 ~~10] IS VOID.~~

15
16 NEW SECTION. Section 88. Effective dates. (1) Except as provided in subsection (2), [this act] is
17 effective July 1, 2013.

18 (2) [Sections 5, 8, 9, 13 through 18, 22 through 25, 27 through 49, ~~52, 56, 59 through 61, 65, 69 through~~
19 ~~71, 74 through 79, and 81 through 84~~ 50, 54, 57 THROUGH 59, 63, 67 THROUGH 69, 72 THROUGH 77, AND 79
20 THROUGH 82] are effective July 1, 2014.

21 - END -