

HOUSE BILL NO. 124

INTRODUCED BY W. MCKAMEY

BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING RETIREMENT PLAN LAWS TO ENSURE FEDERAL TAX QUALIFICATION; REVISING COMMINGLED AND GROUP TRUST PROVISIONS TO COMPLY WITH FEDERAL LAW; REVISING THE MORTALITY TABLES USED TO DETERMINE COMPLIANCE WITH FEDERAL LAW; REVISING REFERENCES TO ELIGIBILITY FOR MILITARY SERVICE TO COMPLY WITH FEDERAL LAW; REVISING THE CATCH-UP AGE FOR PUBLIC SAFETY EMPLOYEES PARTICIPATING IN A DEFERRED COMPENSATION PLAN TO COMPLY WITH NORMAL RETIREMENT AGE PROVISIONS; REVISING THE DEFINITION OF DEFERRED COMPENSATION PLAN PARTICIPANT TO INCLUDE ANYONE ENROLLED IN A DEFERRED COMPENSATION PLAN, WHETHER STILL EMPLOYED OR NOT; AMENDING SECTIONS 19-2-504, 19-2-1001, 19-2-1014, 19-3-2102, 19-50-101, AND 19-50-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 19-2-504, MCA, is amended to read:

"19-2-504. Investment of pension trust funds. (1) Except as provided in chapter 3, part 21, of this title, the pension trust funds of the retirement systems must be invested by the state board of investments as part of the unified investment program described in Title 17, chapter 6, part 2.

(2) All income earned on any assets constituting a part of the pension trust funds must be paid into the appropriate pension trust funds as received.

(3) The pension trust funds and the defined contribution retirement plan's long-term disability plan trust fund provided for in 19-3-2141 may be commingled for investment purposes, ~~but separate accounts must be maintained for each system.~~ to the extent permitted by Montana law and as permitted under I.R.S. Revenue Ruling 81-100, 1981-1 Cumulative Bulletin 326, I.R.S. Revenue Ruling 2004-67, 2004-2 Cumulative Bulletin 28, I.R.S. Revenue Ruling 2011-1, 2011-2 Internal Revenue Bulletin 251, and I.R.S. Revenue Ruling 2014-24, 2014-37 Internal Revenue Bulletin 529 if:

(a) the trust funds are operated or maintained exclusively for the commingling and collective investment

1 of money; and

2 (b) the trust funds in the group trust consist exclusively of trust assets held under retirement systems or
3 plans qualified under one or more of the following:

4 (i) section 401(a) of the Internal Revenue Code, 26 U.S.C. 401(a);

5 (ii) individual retirement accounts that are exempt under section 408(e) of the Internal Revenue Code,
6 26 U.S.C. 408(e);

7 (iii) eligible governmental plans that meet the requirements of section 457(b) of the Internal Revenue
8 Code, 26 U.S.C. 457(b); and

9 (iv) governmental plans under section 401(a)(24) of the Internal Revenue Code, 26 U.S.C. 401(a)(24).

10 (4) For purposes of subsection (3), a trust includes a custodial account that is treated as a trust under
11 section 401(f) or 457(g)(3) of the Internal Revenue Code, 26 U.S.C. 401(f) or 457(g)(3).

12 (5) The board shall adopt any collective or common group trust to which assets of the retirement systems
13 or plans are transferred for investment pursuant to subsection (3) as part of the respective retirement systems
14 or plans by executing appropriate participation agreements, adoption agreements, or trust agreements with the
15 group trust's trustee.

16 (6) The separate accounts maintained by the group trust for retirement systems or plans pursuant to
17 subsection (7) may not be used for or diverted to any purpose other than for the exclusive benefit of the members
18 and beneficiaries of those retirement systems or plans.

19 (7) For purposes of valuation, separate accounts must be maintained for each system or plan, and the
20 value of the separate account maintained by the group trust for the system or plan must be the fair market value
21 of the portion of the group trust held for the system or plan, determined in accordance with generally recognized
22 valuation procedures."

23

24 **Section 2.** Section 19-2-1001, MCA, is amended to read:

25 **"19-2-1001. Maximum contribution and benefit limitations.** (1) (a) Employee contributions paid to
26 and retirement benefits paid from a retirement system or plan may not exceed the annual limits on contributions
27 and benefits, respectively, allowed by section 415 of the Internal Revenue Code, 26 U.S.C. 415.

28 (b) For purposes of determining whether the annual limitations in subsection (1)(a) are met:

29 (i) all defined benefit plans of the employer, whether or not terminated, must be treated as a single
30 defined benefit plan;

1 (ii) all defined contribution plans of the employer, whether terminated or not, must be treated as a single
2 defined contribution plan;

3 (iii) retirement systems and plans established under Title 19 must be prioritized for disqualification
4 purposes above any plans not established under Title 19; and

5 (iv) retirement systems and plans established under Title 19 that must be aggregated for purposes of the
6 limits in section 415 of the Internal Revenue Code, 26 U.S.C. 415, must be prioritized for qualification purposes
7 based on the system or plan providing the member with the highest benefit.

8 (2) A member may not receive an annual benefit that exceeds the dollar amount specified in section
9 415(b)(1)(A) of the Internal Revenue Code, 26 U.S.C. 415(b)(1)(A), subject to the applicable adjustments in
10 section 415(d) of the Internal Revenue Code, 26 U.S.C. 415(d).

11 (3) Notwithstanding any other provision of law to the contrary, the board may modify a request by a
12 member to make a contribution to a retirement system or plan if the amount of the contribution would exceed the
13 limits provided in section 415 of the Internal Revenue Code, by using the following methods:

14 (a) If the law requires a lump-sum payment for the purchase of service credit, the board may establish
15 a periodic payment plan for the member to avoid a contribution in excess of the limits under section 415(c) or
16 415(n) of the Internal Revenue Code, 26 U.S.C. 415(c) or 415(n).

17 (b) If payment pursuant to subsection (3)(a) will not avoid a contribution in excess of the limits imposed
18 by section 415(c) of the Internal Revenue Code, 26 U.S.C. 415(c), the board shall either reduce the member's
19 contribution to an amount within the limits of that section or refuse the member's contribution.

20 (4) (a) Effective for permissive service credit contributions made in limitation years beginning after
21 December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under
22 a retirement system or plan to which this section applies, then the requirements of this section will be treated as
23 met only if:

24 (i) except as provided in subsection (4)(b), the requirements of section 415(b) of the Internal Revenue
25 Code, 26 U.S.C. 415(b), are met, determined by treating the accrued benefit derived from all the contributions
26 as an annual benefit for purposes of section 415(b) of the Internal Revenue Code, 26 U.S.C. 415(b); or

27 (ii) except as provided in subsection (4)(c), the requirements of section 415(c) of the Internal Revenue
28 Code, 26 U.S.C. 415(c), are met, determined by treating all the contributions as annual additions for purposes
29 of section 415(c) of the Internal Revenue Code, 26 U.S.C. 415(c).

30 (b) For purposes of applying subsection (4)(a)(i), the retirement system or plan may not fail to meet the

1 reduced limit under section 415(b)(2)(C) of the Internal Revenue Code, 26 U.S.C. 415(b)(2)(C), solely by reason
2 of subsection (4)(a).

3 (c) For purposes of applying subsection (4)(a)(ii), the retirement system or plan may not fail to meet the
4 percentage limitation under section 415(c)(1)(B) of the Internal Revenue Code, 26 U.S.C. 415(c)(1)(B) solely by
5 reason of this subsection (4).

6 (5) For purposes of subsection (4), the term "permissive service credit" means service credit:

7 (a) specifically recognized by a plan subject to this chapter for purposes of calculating a plan member's
8 benefit under the member's plan;

9 (b) that the plan member has not received under the plan;

10 (c) that the plan member may receive only by making a voluntary additional contribution, in an amount
11 determined under the plan, that does not exceed the amount necessary to fund the benefit attributable to the
12 service credit; and

13 (d) effective for permissive service credit contributions made in limitation years beginning after December
14 31, 1997, service credit for periods for which there is no performance of service, which, notwithstanding
15 subsection (5)(b), may include service credit purchased in order to provide an increased benefit under the plan.

16 (6) A retirement system or plan fails to meet the requirements of subsection (4) if:

17 (a) more than 5 years of nonqualified service credit are taken into account; or

18 (b) any nonqualified service credit is taken into account before the plan member has at least 5 years of
19 participation under the plan.

20 (7) For purposes of subsection (6), effective for permissive service credit contributions made in limitation
21 years beginning after December 31, 1997, the term "nonqualified service credit" means permissive service credit
22 other than that allowed with respect to:

23 (a) service, including parental, medical, sabbatical, and similar leave, as an employee of the government
24 of the United States, any state or political subdivision of a state, or any agency or instrumentality of a state or of
25 a political subdivision of a state, other than military service or service for credit that was obtained as a result of
26 a repayment of a refund as described in section 415(k)(3) of the Internal Revenue Code, 26 U.S.C. 415(k)(3);

27 (b) service, including parental, medical, sabbatical, and similar leave, as an employee, other than an
28 employee described in subsection (7)(a), of an education organization described in section 170(b)(1)(A)(ii) of the
29 Internal Revenue Code, 26 U.S.C. 170(b)(1)(A)(ii), that is a public, private, or sectarian school that provides
30 elementary or secondary education through grade 12 or a comparable level of education, as determined under

1 the applicable law of the jurisdiction in which the service was performed;

2 (c) service as an employee of an association of employees who are described in subsection (7)(a); or

3 (d) military service, other than qualified military service under section 414(u) of the Internal Revenue
4 Code, 26 U.S.C. 414(u), recognized by the system or plan.

5 (8) In the case of service described in subsection (7)(a), (7)(b), or (7)(c), service must be nonqualified
6 service if recognition of the service would cause a plan member to receive a retirement benefit for the same
7 service under more than one plan.

8 (9) In the case of a trustee-to-trustee transfer after December 31, 2001, to which section 403(b)(13)(A)
9 or 457(e)(17)(A) of the Internal Revenue Code, 26 U.S.C. 403(b)(13)(A) or 457 (e)(17)(A), applies, without regard
10 to whether the transfer is made between plans maintained by the same employer:

11 (a) the limitations in subsection (7) do not apply in determining whether the transfer is for the purchase
12 of permissive service credit; and

13 (b) the distribution rules applicable to the plan under federal law apply to those amounts and any benefits
14 attributable to those amounts.

15 (10) (a) For purposes of this subsection (10), an eligible plan member is an individual who became a
16 member of the plan before January 1, 1998.

17 (b) For an eligible plan member, the limitation in section 415(c)(1) of the Internal Revenue Code, 26
18 U.S.C. 415(c)(1), may not be applied to reduce the amount of permissive service credit that may be purchased
19 to an amount less than the amount that was allowed to be purchased under the terms of the applicable law in
20 effect on August 5, 1997.

21 (11) The limitation year for purposes of section 415 of the Internal Revenue Code, 26 U.S.C. 415, is the
22 calendar year beginning each January 1 and ending December 31.

23 (12) (a) "Salary", for the purposes of determining compliance with section 415 of the Internal Revenue
24 Code, 26 U.S.C. 415, and for no other purposes, means compensation as defined in 26 CFR 1.415(c)-1 through
25 1.415(c)-2(d)(4). However:

26 (i) employee contributions picked up under section 414(h)(2) of the Internal Revenue Code, 26 U.S.C.
27 414(h)(2), are excluded from salary; and

28 (ii) the amount of an elective deferral, as defined in section 402(g) of the Internal Revenue Code, 26
29 U.S.C. 402(g), or any other contribution that is contributed or deferred by the employer at the election of the
30 member and that is not includable in the gross income of the member because of section 125, 403(b), or 457 of

1 the Internal Revenue Code, 26 U.S.C. 125, 403(b), or 457, is included in the definition.

2 (b) For limitation years beginning after December 31, 2000, the term includes any elective amounts that
3 are not includable in the gross income of the member by reason of section 132(f)(4) of the Internal Revenue
4 Code, 26 U.S.C. 132(f)(4).

5 (c) For limitation years beginning no later than January 1, 2008, the term includes compensation paid
6 by the later of 2.5 months after a member's severance from employment or the end of the limitation year that
7 includes the date of the member's severance from employment if:

8 (i) the payment is regular compensation for services during the member's regular working hours or
9 compensation for services outside the member's regular working hours such as overtime or shift differential,
10 commissions, bonuses, or other similar payments and, absent a severance from employment, the payments
11 would have been paid to the member while the member continued in employment with the employer; or

12 (ii) the payment is for unused accrued bona fide sick, vacation, or other leave that the member would
13 have been able to use if employment had continued.

14 (d) For limitation years beginning on or after January 1, 2009, the term, as calculated, may not exceed
15 the annual limit under section 401(a)(17) of the Internal Revenue Code, 26 U.S.C. 401(a)(17).

16 (e) Beginning January 1, 2009, to the extent required by section 414(u)(12) of the Internal Revenue
17 Code, 26 U.S.C. 414(u)(12), a member receiving from an employer differential wage payments as defined under
18 section 3401(h)(2) of the Internal Revenue Code, 26 U.S.C. 3401(h)(2), must be treated as employed by that
19 employer. The differential wage payments must be treated as compensation for purposes of applying the limits
20 on annual additions under section 415(c) of the Internal Revenue Code, 26 U.S.C. 415(c). This provision must
21 be applied to all similarly situated employees in a reasonably equivalent manner.

22 (13) For the purposes of applying the limits on a defined benefit plan member's annual benefit under
23 section 415(b) of the Internal Revenue Code, 26 U.S.C. 415(b), the following apply:

24 (a) Prior to January 1, 2009, any automatic adjustment under the retirement system or a plan subject
25 to this chapter must be taken into consideration when determining a member's applicable limit to the extent
26 required by a reasonable interpretation of 26 CFR 1.415-3(c).

27 (b) On or after January 1, 2009, with respect to a member who does not receive a portion of the
28 member's annual benefit in a lump sum:

29 (i) a member's applicable limit must be applied to the member's annual benefit in the first limitation year
30 without regard to any automatic cost-of-living increases;

1 (ii) to the extent the member's annual benefit equals or exceeds the applicable limit, the member is no
 2 longer eligible for cost-of-living increases until the benefit plus the accumulated increases are less than the limit;
 3 and

4 (iii) in any subsequent limitation year, the member's annual benefit, including any automatic cost-of-living
 5 increase applicable, is subject to the applicable benefit limit, including any adjustment to the dollar limit in section
 6 415(b)(1)(A) of the Internal Revenue Code, 26 U.S.C. 415(b)(1)(A), under section 415(d) of the Internal Revenue
 7 Code, 26 U.S.C. 415(d) and the implementing regulations.

8 (c) On or after January 1, 2009, with respect to a member who receives a portion of the member's annual
 9 benefit in a lump sum, a member's applicable limit must be applied, taking into consideration automatic
 10 cost-of-living increases as required by section 415(b) of the Internal Revenue Code, 26 U.S.C. 415(b), and
 11 applicable U.S. treasury regulations.

12 (d) (i) A member's annual benefit payable under the member's plan in any limitation year may not be
 13 greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to section
 14 415(d) of the Internal Revenue Code, 26 U.S.C. 415(d), and the implementing regulations.

15 (ii) If the form of benefit without regard to the automatic benefit increase feature is not a straight life or
 16 a qualified joint and survivor annuity, then this subsection (13)(d) is applied by either reducing the limit in section
 17 415(b) of the Internal Revenue Code, 26 U.S.C. 415(b), applicable at the annuity starting date or adjusting the
 18 form of benefit to an actuarially equivalent straight life annuity benefit determined using the following assumptions
 19 that take into account the death benefits under the form of benefit:

20 (A) for a benefit paid in a form to which section 417(e)(3) of the Internal Revenue Code, 26 U.S.C.
 21 417(e)(3), does not apply, the actuarially equivalent straight life annuity benefit that is the greater of:

22 (I) the annual amount of any straight life annuity payable to the member under the member's plan
 23 commencing at the same annuity starting date as the form of benefit payable to the member; or

24 (II) the annual amount of the straight life annuity commencing at the same annuity starting date that has
 25 the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest
 26 assumption, or the applicable statutory interest assumption, and ~~the applicable mortality table described in 26~~
 27 CFR 1.417(e)-1(d)(2) pursuant to I.R.S. Revenue Ruling 2001-62, 2001-2 Cumulative Bulletin 632, for years prior
 28 to January 1, 2009, using the applicable mortality tables described in 26 CFR 1.417(e)-1(d)(2) and pursuant to
 29 I.R.S. Notice 2008-85, 2008-2 Cumulative Bulletin 905, for years after December 31, 2008, using the applicable
 30 mortality tables described in section 417(e)(3)(B) of the Internal Revenue Code, 26 U.S.C. 417(e)(3)(B); or

1 (B) for a benefit paid in a form to which section 417(e)(3) of the Internal Revenue Code, 26 U.S.C.
2 417(e)(3), applies, the actuarially equivalent straight life annuity benefit that is the greatest of:

3 (I) the annual amount of the straight life annuity commencing at the annuity starting date that has the
4 same actuarial present value as the particular form of benefit payable, computed using the interest rate and
5 mortality table or tabular factor specified in the plan for actuarial experience;

6 (II) the annual amount of the straight life annuity commencing at the annuity starting date that has the
7 same actuarial present value as the particular form of benefit payable, computed using a 5.5% interest
8 assumption, or the applicable statutory interest assumption, and ~~the applicable mortality table for the distribution~~
9 ~~under 26 CFR 1.417(e)-1(d)(2) pursuant to I.R.S. Revenue Ruling 2001-62, 2001-2 Cumulative Bulletin 632, for~~
10 ~~years prior to January 1, 2009, using the applicable mortality tables described in 26 CFR 1.417(e)-1(d)(2) and~~
11 ~~pursuant to I.R.S. Notice 2008-85, 2008-2 Cumulative Bulletin 905, for years after December 31, 2008, using the~~
12 ~~applicable mortality tables described in section 417(e)(3)(B) of the Internal Revenue Code, 26 U.S.C.~~
13 ~~417(e)(3)(B); or~~

14 (III) the annual amount of the straight life annuity commencing at the annuity starting date that has the
15 same actuarial present value as the particular form of benefit payable, computed using as the applicable interest
16 rate for the distribution under 26 CFR 1.417(e)-1(d)(3) prior to January 1, 2009, the rate in effect for the month
17 prior to retirement or, on or after January 1, 2009, the rate in effect for the first day of the plan year with a 1-year
18 stabilization period and, ~~in either case, the applicable mortality table for the distribution under 26 CFR~~
19 ~~1.417(e)-1(d)(2) pursuant to I.R.S. Revenue Ruling 2001-62, 2001-2 Cumulative Bulletin 632, for years prior to~~
20 ~~January 1, 2009, using the applicable mortality tables described in 26 CFR 1.417(e)-1(d)(2) and pursuant to I.R.S.~~
21 ~~Notice 2008-85, 2008-2 Cumulative Bulletin 905, for years after December 31, 2008, using the applicable~~
22 ~~mortality tables described in section 417(e)(3)(B) of the Internal Revenue Code, 26 U.S.C. 417(e)(3)(B), divided~~
23 ~~by 1.05.~~

24 (iii) With respect to subsections (13)(d)(ii)(A) and (13)(d)(ii)(B), the board's actuary may reduce the
25 limitation found in section 415(b) of the Internal Revenue Code, 26 U.S.C. 415(b), for testing purposes using the
26 assumptions specified in subsections (13)(d)(ii)(A) and (13)(d)(ii)(B)."

27

28 **Section 3.** Section 19-2-1014, MCA, is amended to read:

29 **"19-2-1014. Compliance with federal laws regarding military service in uniformed services.** (1)

30 With respect to a member's death occurring on or after January 1, 2007, while the member is performing qualified

1 ~~military service covered under the Heroes Earnings Assistance and Relief Tax Act of 2008, Public Law 110-245,~~
 2 service in the uniformed services as defined in 38 U.S.C. 4303 and to the extent required by section 401(a)(37)
 3 of the Internal Revenue Code, 26 U.S.C. 401(a)(37), the designated beneficiaries are entitled to benefits that the
 4 system would have provided if the member's death had occurred while in covered employment. In any event, a
 5 deceased member's period of qualified service in the uniformed services must be counted for vesting purposes.

6 (2) With respect to a member's disability occurring on or after January 1, 2009, while the member is
 7 performing qualified ~~military service covered under the Heroes Earnings Assistance and Relief Tax Act of 2008,~~
 8 ~~Public Law 110-245,~~ service in the uniformed services as defined in 38 U.S.C. 4303 and to the extent ~~required~~
 9 permitted by section 414(u)(9) of the Internal Revenue Code, 26 U.S.C. 414(u)(9), the member is entitled to any
 10 benefits that the system would have provided had the member become disabled while in covered employment."
 11

12

12 **Section 4.** Section 19-3-2102, MCA, is amended to read:

13 **"19-3-2102. Defined contribution plan established -- assets to be held in trust -- contracted**
 14 **services.** (1) The board shall establish within the public employees' retirement system a defined contribution plan
 15 in accordance with the provisions of this part. The plan must be established as a pension plan for the exclusive
 16 benefit of members and their beneficiaries and as a "qualified governmental plan" pursuant to section 401(a) of
 17 the Internal Revenue Code and its implementing regulations. Retirement accounts must be established for each
 18 member of the defined contribution plan. Assets of the plan, including assets of the long-term disability plan
 19 pursuant to 19-3-2141, must be held in trust. The plan is established in addition to any retirement, pension,
 20 deferred compensation, or other benefit plan administered by the state or a political subdivision.

21 (2) The board may contract for plan administration and use a competitive bidding process when
 22 contracting for consulting, educational, investment, recordkeeping, or other services for the plan."
 23

24

24 **Section 5.** Section 19-50-101, MCA, is amended to read:

25 **"19-50-101. Definitions.** For the purposes of this chapter, unless a different meaning is plainly implied
 26 by the context, the following definitions apply:

27 (1) "Administrator" or "board" means the public employees' retirement board created in 2-15-1009 or an
 28 appropriate officer of a political subdivision.

29 (2) "Deferred compensation" means the income that an employee may legally defer in a deferred
 30 compensation plan established under this chapter pursuant to the rulings of the internal revenue service and that,

1 while invested, is exempt from state and federal income tax on the employee's contribution and on the interest,
2 dividends, and capital gains until ultimately distributed to the employee.

3 (3) "Eligible deferred compensation plan" means a plan meeting the requirements of section 457 of the
4 Internal Revenue Code, 26 U.S.C. 457.

5 (4) "Employee" means any person, including independent contractors and elected officials, receiving
6 compensation from the state or a political subdivision for performing services.

7 (5) "Fund" means the state deferred compensation investment account.

8 (6) "Participant" means either an employee who is enrolled or a previous employee who remains enrolled
9 in an eligible deferred compensation plan established under this chapter.

10 (7) "Political subdivision" means any city, town, county, or other political subdivision of the state of
11 Montana, including the Montana university system.

12 (8) "Roth account" means a separate account within a deferred compensation plan established under
13 this chapter that is composed of after-tax contributions made pursuant to section 402A of the Internal Revenue
14 Code, 26 U.S.C. 402A.

15 (9) "Roth deferral" means an after-tax contribution by a participant to the participant's deferred
16 compensation account."
17

18 **Section 6.** Section 19-50-104, MCA, is amended to read:

19 **"19-50-104. Eligibility to catch up -- normal retirement age.** (1) Except as provided in subsection (2),
20 for the purposes of determining a participant's eligibility to catch up on making the maximum annual deferrals
21 allowable, normal retirement age must be specified in writing by the participant and must be no earlier than:

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

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

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

30 (a) designate a normal retirement age for the qualified police or firefighters that is no less than ~~40~~ 50

1 years of age; or

2 (b) allow a qualified police or firefighter participant to designate a normal retirement age that is between
3 ~~40~~ 50 and 70 1/2 years of age.

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

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

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

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

10 (d) firefighters who are members of a local firefighters' retirement system provided for in Title 19, chapter
11 18; and

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

14

15 **NEW SECTION. Section 7. Effective date.** [This act] is effective on passage and approval.

16

17 **NEW SECTION. Section 8. Retroactive applicability.** [Section 2] applies retroactively, within the
18 meaning of 1-2-109, to January 1, 1993.

19

- END -