

## 1 SENATE BILL NO. 238

2 INTRODUCED BY M. BLASDEL, J. COHENOUR, R. DRISCOLL, F. GARNER, P. NOONAN, R. RIPLEY,  
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5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A DEFERRED RETIREMENT OPTION PLAN IN  
6 THE HIGHWAY PATROL OFFICERS' RETIREMENT SYSTEM; SPECIFYING ELIGIBILITY AND  
7 PARTICIPATION CRITERIA; SPECIFYING CONTRIBUTIONS AND THE INTEREST RATE TO BE CREDITED;  
8 PROVIDING FOR SURVIVORSHIP BENEFITS AND DISTRIBUTION OPTIONS; GRANTING RULEMAKING  
9 AUTHORITY; AMENDING SECTION 19-6-710, MCA; AND PROVIDING A CONTINGENT VOIDNESS."

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

12  
13 NEW SECTION. **Section 1. Short title.** [Sections 1 through 8] may be cited as the "deferred retirement  
14 option plan" or "DROP".

15  
16 NEW SECTION. **Section 2. Definitions.** Unless the context requires otherwise, as used in [sections  
17 1 through 8], the following definitions apply:

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

19 (2) "DROP account" means the member's accumulated monthly DROP accruals, ~~including any~~  
20 ~~postretirement adjustments~~, plus interest.

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

22 (4) "DROP period" means the period of time that a member irrevocably elects to participate in the DROP  
23 subject to the provisions of [section 4].

24 (5) "Monthly DROP accrual" means the amount credited monthly to a participant's DROP account under  
25 [section 5].

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

28  
29 NEW SECTION. **Section 3. Deferred retirement option plan established -- rulemaking.** (1) The  
30 board shall establish a DROP for eligible members of the retirement system who elect to participate.

1 (2) The board shall administer the DROP in compliance with the Internal Revenue Code and the  
2 applicable rules, regulations, and determinations of the internal revenue service.

3 ~~(3) The board may assess fees on each participant's DROP account to pay the reasonable administrative~~  
4 ~~costs of the DROP. The fees assessed must be fully disclosed to participants and treated as public information.~~  
5 ~~The fees may not exceed 3% of the aggregate of the DROP accounts of all participants.~~

6 ~~(4)(3)~~ The board may adopt rules to administer [sections 1 through 8].

7  
8 **NEW SECTION. Section 4. Eligibility -- participation criteria -- membership status -- service**  
9 **interruptions.** (1) Any member eligible to retire under 19-6-501 is eligible for and may elect to participate in the  
10 DROP by filing a one-time irrevocable election with the board on a form prescribed by the board.

11 (2) A member electing to participate in the DROP shall participate for a minimum of 1 month and may  
12 not participate for more than 5 years.

13 (3) A member may participate in the DROP only once.

14 (4) A participant in the DROP remains a member of the retirement system but may not receive  
15 membership service or service credit in the system for the duration of the participant's DROP period.

16 (5) If participation is interrupted by military service or disability before the participant retires, then the  
17 duration of the absence may not be included in calculating the DROP period.

18  
19 **NEW SECTION. Section 5. Retirement system contributions -- benefit payments to individual**  
20 **DROP accounts -- investment returns.** (1) (a) During a participant's DROP period, state contributions under  
21 19-6-410 and employer contributions under 19-6-404 must continue to be made to the retirement system.

22 (b) Member contributions under 19-6-402 must be made to the member's DROP account.

23 (2) Each month during the DROP period, in addition to the contributions credited under subsection (1)(b),  
24 a participant's DROP account must be credited with:

25 (a) the monthly benefit that would have been payable to the participant had the participant terminated  
26 employment and retired at the commencement of the DROP period, ~~including~~ EXCLUDING any postretirement  
27 benefit adjustments that would have been applied to the benefit under part 7 of this chapter; and

28 (b) interest every fiscal yearend at the actuarially assumed rate of return. Proportionate interest must  
29 be credited for distributions taking place at other than a fiscal yearend.

30

1            **NEW SECTION. Section 6. Survivorship benefit.** (1) If a participant dies prior to the receipt of the  
 2 DROP benefit pursuant to [section 8], the participant's surviving spouse or dependent child is entitled to receive  
 3 a lump-sum payment equal to the participant's DROP benefit as of the date of the participant's death and the  
 4 benefit the surviving spouse or dependent child would have received under 19-6-505 had the participant retired  
 5 rather than elected to participate in the DROP.

6            (2) If there is no surviving spouse or dependent child, the designated beneficiary is entitled to receive  
 7 a lump-sum payment equal to the participant's DROP benefit as of the date of the participant's death and the  
 8 participant's accumulated contributions minus any benefits paid from the participant's account, including monthly  
 9 DROP accruals.

10           (3) The benefit paid pursuant to this section must include interest credited to the participant's account  
 11 every fiscal yearend at the actuarially assumed rate of return. Proportionate interest must be credited for  
 12 distributions taking place at a time other than a fiscal yearend.

13  
 14           **NEW SECTION. Section 7. Employment and benefits after DROP period.** (1) When a member, after  
 15 the end of the DROP period, continues employment in a covered position, state contributions under 19-6-410,  
 16 employer contributions under 19-6-404, and member contributions under 19-6-402 must continue to be made to  
 17 the retirement system.

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

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

20           (b) upon terminating service, entitled to:

21           (i) the member's service retirement benefit earned prior to the DROP period, including any postretirement  
 22 benefit adjustment ON THAT BENEFIT for which the member is eligible under this chapter, SUBJECT TO SUBSECTION  
 23 (3);

24           (ii) a service retirement benefit based on the member's service credit and highest average compensation  
 25 during membership subsequent to the end of the DROP period, including any postretirement benefit adjustment  
 26 ON THAT BENEFIT for which the member is eligible under part 7 of this chapter, SUBJECT TO SUBSECTION (3); and

27           (iii) the member's DROP benefit.

28           ~~(3) AT THE END OF THE DROP PERIOD, A MEMBER IS IMMEDIATELY ELIGIBLE FOR ANY POSTRETIREMENT BENEFIT~~  
 29 ~~ADJUSTMENTS UNDER PART 7 OF THIS CHAPTER.~~

30           (3) THE POSTRETIREMENT BENEFIT ADJUSTMENT APPLIED PURSUANT TO (2)(B)(I) AND PURSUANT TO (2)(B)(II)

1 MUST COMMENCE ON JANUARY 1 IMMEDIATELY FOLLOWING THE MEMBER'S RETIREMENT AND DOES NOT APPLY TO THE  
 2 MEMBER'S DROP BENEFIT.

3  
 4 NEW SECTION. **Section 8. Distribution of DROP benefit.** (1) Upon termination of service, a  
 5 participant is entitled to:

- 6 (a) receive a lump-sum distribution of the participant's DROP benefit;  
 7 (b) roll the participant's DROP benefit into another eligible retirement plan in a manner prescribed and  
 8 authorized by the board; or  
 9 (c) any other distribution or method of payment of the DROP benefit approved by the board.

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

12

13 **SECTION 9. SECTION 19-6-710, MCA, IS AMENDED TO READ:**

14 **"19-6-710. Guaranteed annual benefit adjustment.** (1) Subject to subsection (2), for members hired  
 15 before July 1, 2013, on January 1 of each year, the permanent monthly benefit payable during the preceding  
 16 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) Except as provided in ~~subsection (2)(b)~~ SUBSECTIONS (2)(B) AND (4) and [section 7(3)], a benefit  
 25 recipient is eligible for and must receive the minimum annual benefit adjustment provided 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 must be filed with

1 the board prior to January 1, 1998, and requires an active member to pay an increased contribution rate from July  
 2 1, 1997, forward. A retired member or the member's survivor who is receiving a monthly benefit before July 1,  
 3 1997, shall also file the voluntary, irrevocable election no later than January 1, 1998, to be covered under this  
 4 section.

5 (4) IF A MEMBER PARTICIPATED IN THE DROP AND DID NOT CONTINUE EMPLOYMENT IN A COVERED POSITION  
 6 AFTER THE MEMBER'S PARTICIPATION, THE GUARANTEED ANNUAL BENEFIT ADJUSTMENT PROVIDED FOR IN THIS SECTION  
 7 MUST COMMENCE ON JANUARY 1 IMMEDIATELY FOLLOWING THE MEMBER'S RETIREMENT AND DOES NOT APPLY TO THE  
 8 MEMBER'S DROP BENEFIT.

9 ~~(4)~~(5) The board shall adopt rules to administer the provisions of this section."  
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11 NEW SECTION. Section 10. Board to seek commissioner's ruling or determination -- contingent  
 12 **voidness.** (1) The public employees' retirement board shall, as soon as possible, request in writing a ruling or  
 13 determination from the commissioner of internal revenue as to whether the deferred retirement option plan  
 14 established pursuant to [sections 1 through 8] constitutes a qualified plan pursuant to section 401(a) of the  
 15 Internal Revenue Code. The board shall notify the secretary of state and the code commissioner when the  
 16 commissioner of internal revenue has issued a ruling or determination.

17 (2) If the internal revenue service ruling or determination is not favorable, [this act] is void.  
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19 NEW SECTION. Section 11. Codification instruction. [Sections 1 through 8] are intended to be  
 20 codified as an integral part of Title 19, chapter 6, and the provisions of Title 19, chapter 6, apply to [sections 1  
 21 through 8].

22 - END -