



AN ACT GENERALLY REVISING LAWS RELATED TO THE ADMINISTRATION OF PUBLIC EMPLOYEE RETIREMENT SYSTEMS; REVISING PROVISIONS OF THE PUBLIC EMPLOYEES', JUDGES', HIGHWAY PATROL OFFICERS', SHERIFFS', GAME WARDENS' AND PEACE OFFICERS', MUNICIPAL POLICE OFFICERS', AND FIREFIGHTERS' UNIFIED RETIREMENT SYSTEMS; REVISING PROVISIONS OF THE VOLUNTEER FIREFIGHTERS' COMPENSATION ACT; CREATING WORKING RETIREE HOUR LIMITS AND SECOND RETIREMENT BENEFITS IN ALL SYSTEMS IN WHICH THEY DO NOT CURRENTLY EXIST; CLARIFYING ELIGIBILITY FOR SERVICE PURCHASES; CLARIFYING LUMP-SUM PAYOUTS; PROVIDING FOR THE SUSPENSION OF SUSPECT BENEFIT PAYMENTS; PROVIDING FOR RECOVERY OF OVERPAYMENTS; CLARIFYING WHEN RETIREMENT BENEFITS ARE SUBJECT TO ATTACHMENT; ASSESSING ACTUARIAL COSTS TO TERMINATING EMPLOYERS; REVISING THE AGE LIMIT FOR CERTAIN DISABILITY PAYMENTS; CLARIFYING RETURN TO SERVICE PROVISIONS FOR RETIRED VOLUNTEER FIREFIGHTERS; AMENDING SECTIONS 19-2-602, 19-2-603, 19-2-704, 19-2-902, 19-2-903, 19-2-904, 19-2-907, 19-2-1004, 19-3-108, 19-3-201, 19-3-403, 19-3-413, 19-3-1105, 19-3-1106, 19-3-2141, 19-5-502, 19-6-101, 19-6-1005, 19-7-101, 19-7-1101, 19-8-101, 19-8-1003, 19-9-1204, 19-9-1207, 19-9-1301, 19-13-104, 19-13-212, 19-13-302, 19-13-1101, 19-17-112, 19-17-407, 19-17-412, 19-17-502, AND 19-17-503, MCA; REPEALING SECTIONS 19-8-1104 AND 19-17-506, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 19-2-602, MCA, is amended to read:

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

(2) A nonvested member who has terminated service with accumulated contributions of less than \$200

must be paid the accumulated contributions in a lump sum as soon as administratively feasible without a written application being filed by the member.

(3) A nonvested member who has terminated service with accumulated contributions of \$200 to \$1,000 must be paid the accumulated contributions in a lump sum as soon as administratively feasible unless a written application is filed within 90 days of terminating service pursuant to subsection (4).

(4) Upon the filing of a written application by an alternate payee eligible to receive a single distribution of \$200 or more under 19-2-907 or 19-2-909 or by a member who is terminating service and is eligible to receive a refund of \$200 or more of accumulated contributions, the board shall make a direct rollover distribution of any eligible rollover distribution allowed under section 401(a)(31) of the Internal Revenue Code, 26 U.S.C. 401(a)(31). The direct rollover distribution must be paid directly to an eligible retirement plan allowed under applicable federal law. As of January 1, 2008, an eligible retirement plan includes a Roth IRA, provided for under 26 U.S.C. 408A. The applicant is responsible for designating an eligible retirement plan on forms provided by the board. The portion of the account that is not an eligible rollover distribution must be paid directly to the recipient."

Section 2. Section 19-2-603, MCA, is amended to read:

"19-2-603. Reinstatement after withdrawal of contributions. Except as otherwise provided in chapter 3, part 21, of this title and this section, a person who again becomes a an active member of a defined benefit plan subsequent to the refund of the person's accumulated contributions after a termination of previous membership is considered a new member without previous membership service or service credit. The person, while either an active or inactive vested member, may reinstate that membership service or service credit by redepositing the sum of the accumulated contributions that were refunded to the person at the last termination of the person's membership plus the interest that would have been credited to the person's accumulated contributions had the refund not taken place. If the person makes this redeposit, the membership service and service credit previously canceled must be reinstated."

Section 3. Section 19-2-704, MCA, is amended to read:

"19-2-704. Purchasing service credits allowed -- payroll deduction. (1) Subject to the rules promulgated by the board, an eligible member may elect to make additional contributions to purchase service credits as provided by the statutes governing the retirement system.

(2) Subject to any statutory provision establishing stricter limitations, only active or vested inactive members are eligible to purchase or transfer service credit, membership service, or contributions or to redeposit amounts withdrawn under 19-2-602.

(3) ~~A~~ An eligible member who wishes to redeposit amounts withdrawn under 19-2-602 or who is eligible to purchase service credit as provided by the statutes governing the retirement system to which the member belongs may elect to make a lump-sum payment by personal check or rollover of funds from another eligible plan, to make installment payments, or to make a combination of a lump-sum payment and installment payments.

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

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

- (a) must be signed by the member and the member's employer;
- (b) must specify the dollar amount of each deduction and the number of deductions to be made, subject to any maximum amounts or duration established by state or federal law;
- (c) may not give the member the option of receiving the deduction amounts directly instead of having them paid by the employer to the board; and
- (d) must specify that the additional contributions being picked up, although designated as employee contributions, are being paid by the employer directly to the board in lieu of contributions paid directly by the employee.

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

(a) An employer shall pick up the member's elective additional contributions made pursuant to a payroll deduction authorization. The contributions picked up by the employer must be paid from the same source as is used to pay compensation to the member and must be included as part of the member's earned compensation before the deduction is made.

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

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

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

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

(f) A member may file more than one irrevocable payroll deduction agreement and authorization as long as a subsequent deduction authorization does not amend a previous irrevocable authorization. A member may not prepay an amount under an irrevocable payroll deduction agreement without terminating employment, except when a member becomes a member of another retirement system by an authorized election and the service purchase is in accordance with 19-2-715.

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

Section 4. Section 19-2-902, MCA, is amended to read:

"19-2-902. Payment of benefits. (1) A retirement benefit or survivorship benefit granted under a retirement system subject to this chapter, other than a benefit under the defined contribution plan, must be payable in monthly installments, except as provided in this part.

(2) (a) If a member or beneficiary who is a natural person elects, the board shall pay the ~~present value of the benefit~~ member's accumulated contributions to the member or beneficiary in a single lump sum.

(b) The lump sum must be paid at the time the initial monthly benefit would otherwise be payable.

(c) An election to receive a single lump sum must be made at least 30 days prior to the first payment date.

(3) A beneficiary that is a charitable organization, the estate of the payment recipient, or a trust is eligible only for a single lump sum.

~~(3)~~(4) If a benefit recipient dies before the last day of the month, a pro rata amount otherwise payable to the payment recipient must be paid to the designated beneficiary, statutory beneficiary, or contingent annuitant or to the benefit recipient's estate, as appropriate."

Section 5. Section 19-2-903, MCA, is amended to read:

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

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

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

- (a) adjusting the subsequent lump-sum or installment payments from the member or the member's employer;
 - (b) accepting a lump-sum payment or rollover from the member for the amount underpaid; or
 - (c) granting the member service credit proportional to the amount actually paid.
- (3) If fraud or error results in a member, survivor, or beneficiary receiving more or less than entitled to, then upon the discovery of the error, the board shall correct the error.

(4) If the board suspects that a payment is not being delivered to its intended recipient, the board shall suspend the payment. The suspension will continue until the board makes direct contact with the intended recipient and is able to confirm the intended recipient's correct address or direct deposit information. Upon

confirmation, payments will resume and any payments suspended must be made to the intended recipient as soon as administratively possible.

~~(4)~~(5) (a) Except as provided in subsection ~~(5)~~ (6), if a benefit or payment is overpaid or paid to a person not entitled to receive the benefit or payment, the board may recover the full amount of the improper distribution, plus interest set at the assumed rate of return on the system's investments. The interest must be compounded annually and be applied monthly and must accrue from the date the recipient of the improper distribution received a final determination notice of the improper distribution until the total amount owed to the retirement system pursuant to this subsection ~~(4)~~ (5) is paid in full.

(b) To recover an amount owed pursuant to this subsection ~~(4)~~ (5), the board may adjust future benefit payments or arrange for another method of payment. For collection of amounts due, the board may pursue all remedies available by law to it, including but not limited to initiating a lawsuit, requesting an electronic funds transfer or automated clearinghouse reversal transaction from the recipient's banking institution, or assigning or referring the debt to an attorney or collection agency.

(c) The board is entitled to recover its reasonable costs for pursuing collection, including but not limited to attorney fees or charges assessed by a collection agency. These costs may be added to the principal amount due under this subsection ~~(4)~~ (5) and accrue interest as provided in subsection ~~(4)~~(a) (5)(a).

(d) The recipient of an improperly paid benefit or payment is liable for repayment of the total amount owed pursuant to this subsection ~~(4)~~ (5).

(e) The board may, for good cause, waive some or all of the interest charges or collection costs that may be assessed under this subsection ~~(4)~~ (5).

~~(5)~~(6) (a) If overpaid benefits or unpaid contributions resulted solely from an error made by the retirement system:

(i) the retirement system may recover the amount owed only with respect to the timeframe beginning 24 months prior to the date on which the retirement system issues an initial notice of the amount owed and ending when the amount owed is paid in full; and

(ii) interest may not be charged if the amount owed is paid within 30 days after issuance of the final staff determination.

(b) If the amount owed is not paid in full within 30 days after issuance of the final staff determination, the amount owed accrues interest at the retirement system's actuarially assumed annual rate of return, compounded

monthly, beginning on the 31st day after issuance of the final staff determination. Interest continues to accrue until the amount owed to the retirement system is fully paid."

Section 6. Section 19-2-904, MCA, is amended to read:

"19-2-904. Withholding of group insurance premium from retirement benefit. (1) A retiree who is a participant in an employee group insurance plan that permits participation in the group plan following retirement may elect to have the monthly premium for group insurance withheld by the retirement system and paid directly by the system to the ~~insurance carrier~~ sponsoring employer. In order to qualify for this withholding, a retiree must be a participant in a group insurance plan available to the employees of the former employer. Withholding may not be made for any retiree covered by an individual insurance policy.

(2) Following the death of a retiree who elected withholding of premiums under subsection (1), the retiree's contingent annuitant may elect to have the contingent annuitant's monthly premium for group insurance withheld by the retirement system and paid directly by the system to the ~~insurance carrier~~ sponsoring employer. In order to qualify for this withholding, the contingent annuitant must be covered by the same group insurance plan that covered the retiree in accordance with subsection (1)."

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

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

(2) For purposes of this section:

(a) "family law order" means a judgment, decree, or order of a court of competent jurisdiction under Title 40 concerning child support, parental support, spousal maintenance, or marital property rights that includes a transfer of all or a portion of a participant's payment rights in a retirement system to an alternate payee in compliance with this section and with section 414(p) of the Internal Revenue Code, 26 U.S.C. 414(p); and

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

(3) A family law order must identify a participant and an alternate payee by full name, current address, date of birth, and social security number. An alternate payee's rights and interests granted in compliance with this

section are not subject to assignment, execution, garnishment, attachment, or other process. An alternate payee's rights or interests may be modified only by a family law order amending the family law order that established the right or interest.

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

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

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

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

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

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

(c) Retirement benefit adjustments for which a participant is eligible after retirement may be paid as a percentage only if existing benefit payments are paid as a percentage. The adjustments must be paid as a percentage in the same ratio as existing benefit payments unless the family law order specifies that the alternate payee is not entitled to benefit adjustments.

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

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

(a) The vested account of the participant may be apportioned by directing payment of either a percentage

or a fixed amount. The total amount paid may not exceed the amount in the participant's vested account. The alternate payee may receive the payment only as a direct payment, rollover, or transfer. The alternate payee's portion must be totally disbursed to the alternate payee as soon as administratively feasible upon the board's approval of the family law order.

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

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

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

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

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

Section 8. Section 19-2-1004, MCA, is amended to read:

"19-2-1004. Exemption from taxes and legal process. (1) Except as provided in 19-2-907, ~~and 19-2-909, and subsection (2) of this section,~~ the right of a person to any benefit or payment from a retirement system or plan and the money in the system or plan's pension trust fund is not:

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

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

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

or

~~(b)(ii)~~ a refund of a member's regular contributions picked up by an employer after June 30, 1985, as 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

~~(3)~~(c) assignable except as specifically provided in this chapter.

(2) The right of a person to any benefit or payment from a retirement system or plan and the money in the system's or plan's pension trust fund associated with that benefit or payment is subject, once the person is entitled to distribution of the benefit or payment, to:

(a) a United States tax lien or levy for past-due taxes; and

(b) execution, garnishment, attachment, levy, or other process related to the collection of criminal fines and orders of restitution imposed under federal law as provided for in 18 U.S.C. 3613."

Section 9. Section 19-3-108, MCA, is amended to read:

"19-3-108. Definitions. Unless the context requires otherwise, as used in this chapter, the following definitions apply:

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

(b) Compensation does not include:

(i) the contributions made pursuant to 19-3-403(4)(a) for members of a bargaining unit;

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

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

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

(v) lump-sum payments for compensatory leave, sick leave, banked holiday time, or annual leave paid without termination of employment; or

(vi) bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and not considered part of base pay.

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

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

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

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

(6) (a) "Highest average compensation" means:

(i) for a member hired prior to July 1, 2011, the highest average monthly compensation during any 36 consecutive months of membership service;

(ii) for a member hired on or after July 1, 2011, the highest average monthly compensation during any 60 consecutive months of membership service; or

(iii) in the event a member has not served the minimum specified period of service, the total compensation earned divided by the months of membership service.

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

(c) Excess earnings limits must be applied to the calculation of the highest average compensation pursuant to 19-2-1005(2).

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

Section 10. Section 19-3-201, MCA, is amended to read:

"19-3-201. Contracts with political subdivisions. (1) Any municipal corporation, county, or public agency in the state may become a contracting employer through a contract entered into between the board and the legislative body of the contracting employer. The contract must provide that all employees eligible under this chapter must become members. Contracts executed prior to July 1, 2009, that limit membership to a specific group or groups of employees remain valid. The contract may include any provisions that are consistent with chapter 2 and this chapter and necessary in the administration of the retirement system as it affects the contracting employer and its employees.

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

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

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

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

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

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

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

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

(d) Upon receipt of the termination resolution, the board may request an actuarial valuation of the liabilities of the terminating agency to the retirement system, and the board may withhold approval of the

termination of contract until satisfactory arrangements are made to provide funding for:

(i) the cost of the actuarial valuation to determine the terminating agency's liabilities to the retirement system; and

(ii) any excess accrued liabilities not previously funded by the terminating agency."

Section 11. Section 19-3-403, MCA, is amended to read:

"19-3-403. Exclusions from membership. The following persons may not become members of the retirement system and, except as provided in subsection (7), may not later purchase previous service under 19-3-505:

- (1) inmates or residents of state institutions or correctional institutions;
- (2) persons in state institutions principally for the purpose of training but who receive compensation;
- (3) independent contractors;

(4) persons who are members of any other retirement or pension system supported wholly or in part by funds of the United States government, any state government, or political subdivision of the state and who are receiving credit in the other system for employment. It is the purpose of this subsection to prevent a person from receiving credit for the same employment in two retirement systems supported wholly or in part by public funds, except when the service qualifies and is applied for and the service credit is purchased pursuant to 19-3-503. A member of the retirement system who, because of employment by the state, is required to become a member of any other system described in this subsection is considered, with regard to that employment, an inactive member of the retirement system, except that the member is not eligible for retirement or a refund of the member's accumulated contributions. Exclusion under this subsection is subject to the following exceptions:

(a) The employees of an employer who has entered into a collective bargaining agreement involving a multiemployer pension plan qualified by the internal revenue service and that requires contributions by the employer for the members of the bargaining unit remain eligible, if otherwise qualified, for membership in the retirement system.

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

(5) substitute teachers or part-time teacher's aides who may elect to join the teachers' retirement system

in accordance with 19-20-302(4);

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

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

(8) county school superintendents who are required by 19-20-302(1)(g) and (2) to be members of the teachers' retirement system provided for in Title 19, chapter 20."

Section 12. Section 19-3-413, MCA, is amended to read:

"19-3-413. Optional membership -- elected officials. (1) (a) Except as provided in 5-2-304, 19-20-302(1)(g) and (2), and subsection (2) of this section, a person who is elected or appointed to an elected office and paid a salary or wage by an employer shall elect either to become an active member of the retirement system or to decline this optional membership by filing an irrevocable, written application with the board in the manner prescribed in subsection (3).

(b) If the elected official is a retired member, the elected official may make an election under this section to become an active member or to decline membership and remain a retired member with no limitation on the number of hours worked or wages earned in the elected office.

(2) An elected official who works more than 960 hours in a fiscal year in that elected office and who was an active or inactive member before becoming an elected official is not eligible to make an election under subsection (1). An active member remains an active member for all covered employment, and an inactive member shall become an active member.

(3) (a) The board shall prescribe the form of the written application required pursuant to this section and provide the form to each employer.

(b) An election form must be completed and returned to the board within 90 days after the elected official assumes office. Failure to file the written application form within 90 days is considered an election to decline

membership.

(c) The employer shall retain a copy of the elected official's written application.

(4) Except as provided in subsection (5), an elected official who declines optional membership may not receive membership service or service credit for any employment in the position for which membership was declined.

(5) An elected official who declined optional membership under this section but who later becomes a member may purchase service credit for the period of time the person was employed in the optional position and declined membership. Purchase of service credit pursuant to this subsection must comply with 19-3-505.

(6) An elected official who has made an election under this section and who is reelected or reappointed to the same office is not eligible to make a new election.

(7) For purposes of this section, "elected official" means all persons covered by subsection (1)(a)."

Section 13. Section 19-3-1105, MCA, is amended to read:

"19-3-1105. ~~Benefit upon second retirement~~ Refunds and benefits for reemployed retired members. (1) A member with an initial retirement date before January 1, 2016, who returns to active service and accrues:

(a) less than 2 years of service credit before again terminating service:

(i) ~~must, upon termination of service and pursuant to 19-2-602,~~ receive a refund, paid in the manner provided in 19-2-602, of the member's regular contributions after the member's return to active service, plus regular interest on those contributions;

(ii) may not be awarded service credit for the period of reemployment; and

(iii) starting the first month following termination, must receive the same retirement benefit amount paid to the member in the month immediately prior to returning to active service;

(b) at least 2 years of service credit before again terminating service must receive a recalculated retirement benefit based on provisions enacted after the member's initial retirement, but only with respect to the service credit earned after reemployment.

(2) A member with an initial retirement date on or after January 1, 2016, who returns to active service and accrues:

(a) less than 5 years of service credit before again terminating service:

(i) must, upon termination of service and pursuant to 19-2-602, receive a refund, paid in the manner provided in 19-2-602, of the member's regular contributions after the member's return to active service, plus regular interest on those contributions;

(ii) may not be awarded service credit for the period of reemployment; and

(iii) starting the first month following termination, must receive the same retirement benefit amount paid to the member in the month immediately prior to returning to active service;

(b) at least 5 years of service credit before again terminating service must, starting the first month following termination:

(i) receive the same retirement benefit amount paid to the member in the month immediately prior to returning to active service; and

(ii) receive a second retirement benefit calculated for the period of reemployment under ~~19-3-902~~ or 19-3-904 or 19-3-906, as applicable, and based on the laws in effect as of the member's rehire date.

(3) Members who return to active service following retirement may not accrue postretirement benefit adjustments under Title 19, chapter 3, part 16, during the member's term of reemployment.

(4) Postretirement benefit adjustments will start to accrue on the benefits under:

(a) subsections (1)(a)(iii) and (2)(a)(iii) in January immediately following the member's second retirement;

(b) subsections (1)(b) and (2)(b) in January after the member has received the recalculated benefit for at least 12 months.

(5) Upon retirement subsequent to a cancellation of a disability benefit under 19-3-1104, a member must receive a recalculated benefit as provided in 19-3-904 or 19-3-906, as applicable. The recalculated benefit is based on service credit accumulated at the time of the member's previous retirement plus any service credit accumulated subsequent to reemployment."

Section 14. Section 19-3-1106, MCA, is amended to read:

"19-3-1106. Limited reemployment -- reduction of service retirement benefit upon exceeding limits -- reporting obligations -- liability -- exceptions. (1) A retired member under 65 years of age who was hired prior to July 1, 2011, who has been terminated from employment for at least 90 days, and who is receiving a service retirement benefit or early retirement benefit may return to employment covered by the retirement system for a period not to exceed 960 hours in any calendar year without returning to active service and without any

effect to the retiree's retirement benefit. The retirement benefit for any retiree exceeding this 960-hour limitation in any calendar year after retirement must be temporarily reduced \$1 for each \$1 earned after working 960 hours in that calendar year.

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

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

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

(4) Except as provided in 19-3-412 and 19-3-413, a retiree returning to employment covered by the retirement system may elect to return to active service at any time during this period of ~~covered~~ covered by the retirement system.

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

(a) a retired member who is 70 1/2 years of age or older; or
(b) an elected official in a covered position who, as a retired member, declines optional membership as provided in 19-3-413.

(6) If a retired member is employed by an employer in a position that is reportable to the retirement

system and the retired member is concurrently working for the employer in another position that is not reportable to the system, the position that is not reportable is considered to be part of the position that is reportable to the retirement system. All earnings of the retired member that are generated by these positions are reportable to the retirement system.

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

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

~~(b)~~(ii) services performed by a retiree as ~~an independent~~ an independent contractor for an employer participating in the system.

(b) For purposes of this section, compensation for a retiree covered by subsection (7)(a) is limited to compensation for the work performed by the retiree and does not include any additional payment for overhead costs or costs not directly related to the work performed."

Section 15. Section 19-3-2141, MCA, is amended to read:

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

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

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

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

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

(b) 10 or more but less than 30 years of membership service is equal to one fifty-sixth of the member's

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

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

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

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

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

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

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

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

(i) if the member's disability occurred when the member was less than 65 years of age, the benefit may be paid only until the member reaches ~~65~~ 70 years of age; and

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

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

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

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

(6) If a member receiving a disability benefit under this section dies, the disability benefit payments cease and the member's beneficiary is entitled to death benefits only as provided for in 19-3-2125. Any disability benefits paid in error after the member's death may be recovered by the board pursuant to 19-2-903.

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

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

Section 16. Section 19-5-502, MCA, is amended to read:

"19-5-502. Service retirement benefit. After termination from service and upon application for service retirement, the service retirement benefit must be as follows:

- (1) for members not covered under 19-5-901 or 19-5-902, 3 1/3% a year of the member's current salary for the first 15 years of service credit and 1.785% a year for each year of service credit after 15 years; or
- (2) for members covered under 19-5-901 or 19-5-902, the benefit provided under subsection (1) except that the benefit must be calculated using highest average compensation."

Section 17. Section 19-6-101, MCA, is amended to read:

"19-6-101. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:

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

(b) Compensation does not include:

- (i) maintenance, allowances, and expenses; or
- (ii) bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and not considered part of base pay.

(2) "Dependent child" means an unmarried child of a deceased retired member, who is:

- (a) under 18 years of age; or
- (b) under 24 years of age and attending an accredited postsecondary educational institution as a full-time student in anticipation of receiving a certificate or degree.

(3) (a) "Highest average compensation" means a member's highest average monthly compensation during any 36 consecutive months of membership service or, in the event a member has not served at least 36 months, the total compensation earned divided by the number of months of service.

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

(c) Excess earnings limits must be applied to the calculation of the highest average compensation pursuant to 19-2-1005(2).

(4) "Surviving spouse" means the spouse married to a retired member at the time of the retired member's death.

(5) "Survivor" means a surviving spouse or dependent child of a member."

Section 18. Section 19-6-1005, MCA, is amended to read:

"19-6-1005. (Temporary) Retirement system contributions -- benefit payments to individual DROP accounts -- investment returns. (1) (a) During a participant's DROP period, state contributions under 19-6-410 and employer contributions under 19-6-404 must continue to be made to the retirement system.

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

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

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

~~(b) interest every fiscal yearend at~~

(3) Each fiscal yearend a participant's DROP account must be credited with the interest earned that year based on the actuarially assumed rate of return. Proportionate interest must be credited for distributions taking place at other than a fiscal yearend. (Void on occurrence of contingency--sec. 10, Ch. 258, L. 2015--see part compiler's comment.)"

Section 19. Reemployment of retired members -- contributions required. (1) A retired member who returns to employment covered by the retirement system for 480 hours or more in a calendar year must become

an active member of the system. Upon reinstatement as an active member, benefit payments must cease until subsequent retirement.

(2) A retired member who returns to employment covered by the retirement system for less than 480 hours in a calendar year may not become an active member. The retirement benefit of the retired member in covered employment must be reduced by \$1 for each \$3 earned in excess of \$5,000 in a calendar year.

(3) Retired members who return to active service pursuant to subsection (1) are subject to the employee and employer contributions set forth in 19-6-402 and 19-6-404.

(4) The employer of a retired member who returns to covered employment pursuant to subsection (2) shall contribute the amounts specified in 19-6-404.

Section 20. Refunds and benefits for reemployed retired members. (1) A retired member who returns to active service pursuant to [section 19(1)] and accrues less than 5 years of service credit before again terminating service:

- (a) may not be awarded service credit for the period of reemployment;
- (b) must, upon termination of service and pursuant to 19-2-602, receive a refund of the member's accumulated contributions associated with the service credit accrued upon return to active service; and
- (c) starting the first month following termination of service, must receive the same retirement benefit amount paid to the member in the month immediately prior to returning to active service.

(2) A retired member who returns to active service pursuant to [section 19(1)] and accrues at least 5 years of service credit before again terminating service must receive, starting the first month following termination of service:

- (a) the same retirement benefit amount paid to the member in the month immediately prior to returning to active service; and
- (b) a second retirement benefit calculated for the period of reemployment under 19-6-502 and the laws in effect as of the member's rehire date.

(3) Postretirement benefit adjustments will start to accrue as follows:

- (a) for benefits under subsections (1)(c) and (2)(a), an eligible member is entitled to:
 - (i) a minimum monthly benefit increase pursuant to 19-6-707 when, immediately following the member's termination of service or retirement, a minimum monthly benefit increase is granted to all eligible covered retirees;

or

(ii) a guaranteed annual benefit adjustment in January pursuant to 19-6-710, 19-6-711, or 19-6-712;

(b) for benefits under subsection (2)(b), an eligible member is entitled to a guaranteed annual benefit adjustment under 19-6-712 in January after the member has received the second retirement benefit for at least 12 months.

(4) A retired member who returns to active service pursuant to [section 19(1)]:

(a) is not eligible for a disability retirement; and

(b) may not accrue the postretirement benefit adjustments provided for in part 7 of this chapter during the member's term of reemployment.

Section 21. Section 19-7-101, MCA, is amended to read:

"19-7-101. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:

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

(b) Compensation does not include:

(i) maintenance, allowances, and expenses; or

(ii) bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and not considered part of base pay.

(2) "Detention officer" means any detention officer who is hired by a sheriff, employed in a detention center, and acting as a detention officer for the sheriff and who has received or is expected to receive training to meet the employment standards set for detention officers by the Montana public safety officer standards and training council established in 2-15-2029.

(3) (a) "Highest average compensation" means:

(i) for members hired prior to July 1, 2011, the member's highest average monthly compensation during any 36 consecutive months of membership service;

(ii) for members hired on or after July 1, 2011, the highest average compensation during any 60

consecutive months of membership service; or

(iii) if a member has not served the minimum specified period of membership service as applicable in subsection (3)(a)(i) or (3)(a)(ii), the total compensation earned divided by the number of months of service.

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

(c) Excess earnings limits must be applied to the calculation of the highest average compensation pursuant to 19-2-1005(2).

(4) "Investigator" means a person who is employed by the department of justice as a criminal investigator or as a gambling investigator.

(5) "Sheriff" means any elected or appointed county sheriff or undersheriff or any appointed, lawfully trained, appropriately salaried, and regularly acting deputy sheriff with the requisite professional certification and licensing."

Section 22. Section 19-7-1101, MCA, is amended to read:

"19-7-1101. Reemployment of retired ~~member~~ members -- contributions required. (1) A retired member who returns to ~~service~~ covered employment for 480 hours or more in a calendar year must become an active member of the system. Upon reinstatement as an active member, benefit payments must cease until subsequent retirement.

(2) A retired member who returns to ~~service~~ covered employment for less than 480 hours in a calendar year may not become an active member. The retirement benefit of a retired member ~~employed in~~ service covered employment must be reduced by \$1 for each \$3 earned in excess of \$5,000 in a calendar year.

(3) Retired members who return to active service pursuant to subsection (1) are subject to the employee and employer contributions set forth in 19-7-403 and 19-7-404.

(4) The employer of a retired member who is returning to ~~work~~ covered employment pursuant to subsection (2) shall contribute the amounts specified in 19-7-404."

Section 23. Refunds and benefits for reemployed retired members. (1) A retired member who returns to active service pursuant to 19-7-1101(1) and accrues less than 5 years of service credit before again terminating service:

- (a) may not be awarded service credit for the period of reemployment;
- (b) must, upon termination of service and pursuant to 19-2-602, receive a refund of the member's accumulated contributions associated with the service credit accrued upon returning to active service; and
- (c) starting the first month following termination of service, must receive the same retirement benefit amount paid to the member in the month immediately prior to returning to active service.

(2) A retired member who returns to active service pursuant to 19-7-1101(1) and accrues at least 5 years of service credit before again terminating service must receive, starting the first month following termination of service:

- (a) the same retirement benefit amount paid to the member in the month immediately prior to returning to active service; and
- (b) a second retirement benefit calculated for the period of reemployment under 19-7-503 and the laws in effect as of the member's rehire date.

(3) Postretirement benefit adjustments will start to accrue as follows:

(a) for benefits under subsections (1)(c) and (2)(a), an eligible member is entitled to a guaranteed annual benefit adjustment pursuant to 19-7-711 in January immediately following the member's termination of service or retirement, whichever is applicable;

(b) for benefits under subsection (2)(b), an eligible member is entitled to a guaranteed annual benefit adjustment pursuant to 19-7-711 in January after the member has received the second retirement benefit for at least 12 months.

(4) A retired member who returns to active service pursuant to 19-7-1101(1):

- (a) is not eligible for a disability retirement; and
- (b) may not accrue the postretirement benefit adjustments provided in part 7 of this chapter during the member's term of reemployment.

Section 24. Section 19-8-101, MCA, is amended to read:

"19-8-101. Definitions. Unless the context requires otherwise, the following definitions apply in this

chapter:

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

(b) Compensation does not include:

(i) maintenance, allowances, and expenses; or

(ii) bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and not considered part of base pay.

(2) (a) "Highest average compensation" means:

(i) for members hired prior to July 1, 2011, the highest average monthly compensation during any 36 consecutive months of membership service;

(ii) for members hired on or after July 1, 2011, the highest average monthly compensation during any 60 consecutive months of membership service; or

(iii) in the event a member has not served the minimum specified period of membership service, the total compensation earned divided by the number of months of service.

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

(c) Excess earnings limits must be applied to the calculation of the highest average compensation pursuant to 19-2-1005(2).

(3) "Game warden" means a state fish and game warden hired by the department of fish, wildlife, and parks and includes all warden supervisory personnel whose salaries or compensation is paid out of the department of fish, wildlife, and parks money.

(4) "Motor carrier officer" means an employee of the department of transportation designated or appointed as a peace officer pursuant to 61-10-154 or 61-12-201.

(5) "Peace officer" or "state peace officer" means a person who by virtue of the person's employment

with the state is vested by law with a duty to maintain public order or make arrests for offenses while acting within the scope of the person's authority or who is charged with specific law enforcement responsibilities on behalf of the state."

Section 25. Section 19-8-1003, MCA, is amended to read:

"19-8-1003. Nonduty-related death of active member. If a vested member dies before reaching normal retirement age, the member's designated beneficiary may choose either a lump-sum refund of the member's accumulated contributions or the actuarial equivalent of the service retirement benefit provided for in ~~19-8-604~~ 19-8-603."

Section 26. Reemployment of retired members -- contributions required. (1) A retired member who returns to employment covered by the retirement system for 480 hours or more in a calendar year must become an active member of the system. Upon reinstatement as an active member, benefit payments must cease until subsequent retirement.

(2) A retired member who returns to employment covered by the retirement system for less than 480 hours in a calendar year may not become an active member. The retirement benefit of a retired member in covered employment must be reduced by \$1 for each \$3 earned in excess of \$5,000 in a calendar year.

(3) Retired members who return to active service pursuant to subsection (1) are subject to the employee and employer contributions set forth in 19-8-502 and 19-8-504.

(4) The employer of a retired member who is returning to covered employment pursuant to subsection (2) shall contribute the amounts specified in 19-8-504.

Section 27. Refunds and benefits for reemployed retired members. (1) A retired member who returns to active service pursuant to [section 26(1)] and accrues less than 5 years of service credit before again terminating service:

- (a) may not be awarded service credit for the period of reemployment;
- (b) must, upon termination of service and pursuant to 19-2-602, receive a refund of the member's accumulated contributions associated with the service credit accrued upon return to active service; and
- (c) starting the first month following termination of service, must receive the same retirement benefit

amount paid to the member in the month immediately prior to returning to active service.

(2) A retired member who returns to active service pursuant to [section 26(1)] and accrues at least 5 years of service credit before again terminating service must receive, starting the first month following termination of service:

(a) the same retirement benefit amount paid to the member in the month immediately prior to returning to active service; and

(b) a second retirement benefit calculated for the period of reemployment under 19-8-603 and the laws in effect as of the member's rehire date.

(3) Postretirement benefit adjustments will start to accrue as follows:

(a) for benefits under subsections (1)(c) and (2)(a), an eligible member is entitled to a guaranteed annual benefit adjustment pursuant to 19-8-1105 in January immediately following the member's termination of service or retirement, whichever is applicable;

(b) for benefits under subsection (2)(b), an eligible member is entitled to a guaranteed annual benefit adjustment pursuant to 19-8-1105 in January after the member has received the second retirement benefit for at least 12 months.

(4) A retired member who returns to active service pursuant to [section 26(1)] following retirement:

(a) is not eligible for a disability retirement; and

(b) may not accrue the postretirement benefit adjustments provided in part 11 of this chapter during the member's term of reemployment.

Section 28. Termination of participation in retirement system or reduction of employer contributions. (1) If an employer voluntarily terminates its participation in or contributions to the retirement system or significantly reduces the number of full-paid members it employs to a degree that, in the board's opinion, inadequately funds the accrued or accruing benefits of retirement system members, the board shall request an actuarial valuation of the liabilities of the employer to the retirement system.

(2) Based on the actuarial valuation, the board may hold the employer liable for:

(a) the cost of the actuarial valuation to determine the employer's liabilities to the retirement system; and

(b) any excess accrued liabilities not previously funded by the employer.

Section 29. Section 19-9-1204, MCA, is amended to read:

"19-9-1204. Eligibility -- participation criteria -- membership status -- service interruptions. (1) Any member eligible to retire under 19-9-801(1)(a) is eligible and may elect to participate in the DROP by filing a one-time irrevocable election with the board on a form prescribed by the board.

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

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

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

(5) If participation is interrupted by military service or other temporary absence from work and the participant has not received any distribution from the DROP, then the duration of the absence may not be included in calculating the DROP period.

(6) Subject to the provisions of this section, a member who was eligible to retire under 19-9-801(1) on or after July 1, 2002, but before July 1, 2003, and who elects to participate in the DROP on or before October 1, 2003, may include within the member's DROP period any time during the period beginning July 1, 2002, and ending June 30, 2003."

Section 30. Section 19-9-1207, MCA, is amended to read:

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

~~————~~ ~~(2)(1)~~ When a member, after the end of the DROP period, continues employment in a covered position, state contributions under 19-9-702, employer contributions under 19-9-703, and member contributions under 19-9-710 must continue to be made to the retirement system.

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

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

(b) is, upon terminating service, entitled to:

(i) the member's service retirement benefit earned prior to the DROP period, including any postretirement

benefit adjustment for which the member is eligible under this chapter;

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

(iii) the member's DROP benefit."

Section 31. Section 19-9-1301, MCA, is amended to read:

"19-9-1301. Reemployment of members. (1) If a retired member with less than 20 years of service in the retirement system who is at least 50 years of age returns to employment covered by the retirement system before [the effective date of this act], on reemployment:

(a) the member's retirement benefit payments must cease;

(b) the member becomes a vested active member;

(c) the member shall repay the retirement system the amount of any retirement benefit received, plus interest at the actuarially assumed rate of return on the system's investments; and

(d) on subsequent retirement, the member's retirement benefit must be calculated based on the member's total service under the system.

(2) If a retired member with 20 or more years of service returns to employment covered by the retirement system before [the effective date of this act], on reemployment:

(a) the member's retirement benefit payments must cease;

(b) the member becomes a vested active member;

(c) on subsequent retirement, the member's retirement benefit payable prior to the reemployment must resume; and

(d) the member is entitled to an additional new retirement benefit that is calculated based on the member's new service credit earned and final average compensation after the reemployment.

(3) If a member who is not a retired member returns to employment covered by the retirement system, on reemployment, the member becomes an active member and continues to accrue membership service or service credit as if there had been no break in service."

Section 32. Reemployment of retired members -- contributions required. (1) A retired member who

is receiving a service retirement benefit or early retirement benefit may return to employment covered by the retirement system on or after [the effective date of this act] for a period not to exceed 480 hours in any calendar year without returning to active service. The retirement benefit of a retired member in covered employment must be reduced by \$1 for each \$3 earned in excess of \$5,000 in a calendar year.

(2) If a retired member returns to employment covered by the retirement system on or after [the effective date of this act] for more than 480 hours in a calendar year, the member returns to active service and the member's retirement benefit payments must cease until the member again terminates employment and retires.

(3) For each retired member who returns to covered employment pursuant to subsection (1), the employer shall contribute the amount specified in 19-9-703 and the state shall contribute the amount specified in 19-9-702.

(4) The earned compensation of retired members who return to active service pursuant to subsection (2) is subject to the state, employer, and employee contributions set forth in 19-9-702, 19-9-703, and 19-9-710.

Section 33. Refunds and benefits for reemployed retired members. (1) A retired member who returns to active service pursuant to [section 32(2)] and accrues less than 5 years of service credit before again terminating service:

- (a) may not be awarded service credit for the period of reemployment;
- (b) must, upon termination of service and pursuant to 19-2-602, receive a refund of the member's accumulated contributions associated with the service credit accrued upon returning to active service; and
- (c) starting the first month following termination of service, must receive the same retirement benefit amount paid to the member in the month immediately prior to returning to active service.

(2) A retired member who returns to active service pursuant to [section 32(2)] and accrues at least 5 years of service credit before again terminating service must receive, starting the first month following termination of service:

- (a) the same retirement benefit amount paid to the member in the month immediately prior to returning to active service; and
- (b) a second retirement benefit calculated for the period of reemployment under 19-9-801 and the laws in effect as of the member's rehire date.

(3) Postretirement benefit adjustments will start to accrue as follows:

(a) for benefits under subsections (1)(c) and (2)(a), an eligible member is entitled to:

(i) a minimum monthly adjustment pursuant to 19-9-1007 when, immediately following the member's termination of service or retirement, whichever is applicable, a minimum monthly adjustment is granted to all eligible covered retirees; or

(ii) a guaranteed annual benefit adjustment pursuant to 19-9-1009, 19-9-1010, or 19-9-1013 in January immediately following the member's termination of service or retirement, whichever is applicable;

(b) for benefits under subsection (2)(b), an eligible member is entitled to a guaranteed annual benefit adjustment pursuant to 19-9-1013 in January after the member has received the second retirement benefit for at least 12 months.

(4) A retired member who returns to active service pursuant to [section 32(2)] following retirement:

(a) is not eligible for a disability retirement; and

(b) may not accrue the postretirement benefit adjustments provided for in part 10 of this chapter during the member's term of reemployment.

Section 34. Section 19-13-104, MCA, is amended to read:

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

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

(2) "Compensation" means:

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

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

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

(ii) if that city does not employ a full-paid firefighter, 15% of the average regular remuneration, excluding overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of

sick leave, paid on July 1 of each year to all newly confirmed, full-paid firefighters employed by cities of the second class.

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

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

(ii) maintenance, allowances, and expenses; or

(iii) bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and not considered part of base pay.

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

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

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

(4) "Employer" means:

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

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

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

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

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

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

(7) (a) "Highest average compensation" means the monthly compensation of a member averaged over the highest consecutive 36 months of the member's active service or, in the event a member has not served at least 36 consecutive months, the total compensation earned divided by the number of months of service.

(b) Lump-sum payments for annual leave paid to the member upon termination of employment may be used to replace, on a month-for-month basis, the regular compensation for a month or months included in the calculation of highest average compensation.

(c) Excess earnings limits must be applied to the calculation of the highest average compensation

pursuant to 19-2-1005(2).

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

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

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

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

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

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

(14) "Surviving spouse" means the spouse married to a member at the time of the member's death."

Section 35. Section 19-13-212, MCA, is amended to read:

"19-13-212. Termination of participation in retirement system or reduction of employer contributions. (1) If an employer voluntarily terminates its ~~contributions~~ participation in or contributions to the retirement system or significantly reduces the number of full-paid firefighters it employs to a degree that, in the board's opinion, inadequately funds the accrued or accruing benefits of retirement system members, the board shall request ~~as part of the required actuarial valuation an actuarial investigation of the funding status of the employer~~ an actuarial valuation of the liabilities of the employer to the retirement system.

(2) Based on the actuarial ~~investigation~~ valuation, the board may ~~request and the employer shall pay annually the amount determined to be necessary to provide adequate funding for the liabilities of the employer. This amount must be in addition to any other contributions required by the retirement act~~ request and the employer shall pay annually the amount determined to be necessary to provide adequate funding for the liabilities of the employer and to cover the cost of the actuarial valuation to determine those liabilities. This amount must be in addition to any other contributions required by the retirement act.

(3) ~~Six years after the actuarial investigation is conducted, an employer making payments as provided in subsection (2) may request the board to review the employer's funding status relative to the annual payments. As a result of the review, the board may adjust the payments.~~ Six years after the actuarial investigation is conducted, an employer making payments as provided in subsection (2) may request the board to review the employer's funding status relative to the annual payments. As a result of the review, the board may adjust the payments."

Section 36. Section 19-13-302, MCA, is amended to read:

"19-13-302. Ineligibility for other retirement plans. ~~An~~ Except as provided by 19-2-403(4), an active member is not eligible to be covered under any other mandatory retirement plan to which an employer is required to contribute on the member's behalf while the member is eligible to be covered by this retirement system."

Section 37. Section 19-13-1101, MCA, is amended to read:

"19-13-1101. Reemployment of retired member members -- contributions required. (1) A retired member who is receiving a service retirement benefit or early retirement benefit may return to employment covered by the retirement system for a period not to exceed 480 hours in any calendar year without returning to active service ~~and without any effect to the retiree's retirement benefit.~~ The retirement benefit of a retired member in covered employment must be reduced by \$1 for each \$3 earned in excess of \$5,000 in a calendar year.

(2) If a retired member returns to ~~work in a covered position~~ employment covered by the retirement system for more than 480 hours in a calendar year, the member returns to active service and the member's retirement ~~benefits~~ benefit payments must cease until the member again terminates employment and retires.

(3) For each retired member who returns to work pursuant to subsection (1), the employer shall contribute the amount specified in 19-13-605 and the state shall contribute the amount specified in 19-13-604.

(4) The earned compensation of retired members who return to active service pursuant to subsection (2) is subject to the employee, state, and employer contributions set forth in 19-13-601, 19-13-604, and 19-13-605."

Section 38. Refunds and benefits for reemployed retired members. (1) A retired member who returns to active service pursuant to 19-13-1101(2) and accrues less than 5 years of service credit before again

terminating service:

- (a) may not be awarded service credit for the period of reemployment;
- (b) must, upon termination of service and pursuant to 19-2-602, receive a refund of the member's accumulated contributions associated with the service credit accrued upon returning to active service; and
- (c) starting the first month following termination of service, must receive the same retirement benefit amount paid to the member in the month immediately prior to returning to active service.

(2) A retired member who returns to active service pursuant to 19-13-1101(2) and accrues at least 5 years of service credit before again terminating service must receive, starting the first month following termination of service:

(a) the same retirement benefit amount paid to the member in the month immediately prior to returning to active service; and

(b) a second retirement benefit calculated for the period of reemployment under 19-13-704 and the laws in effect as of the member's rehire date.

(3) Postretirement benefit adjustments will start to accrue as follows:

(a) for benefits under subsections (1)(c) and (2)(a), an eligible member is entitled to:

(i) a minimum benefit adjustment pursuant to 19-13-1007 when, immediately following the member's termination of service or retirement, whichever is applicable, a minimum benefit adjustment is granted to all eligible covered retirees; or

(ii) a guaranteed annual benefit adjustment pursuant to 19-13-1010 or 19-13-1011 in January immediately following the member's termination of service or retirement, whichever is applicable;

(b) for benefits under subsection (2)(b), an eligible member is entitled to a guaranteed annual benefit adjustment pursuant to 19-13-1010 or 19-13-1011 in January after the member has received the second retirement benefit for at least 12 months.

(4) A retired member who returns to active service pursuant to 19-13-1101(2) following retirement:

(a) is not eligible for a disability retirement; and

(b) may not accrue the postretirement benefit adjustments provided for in part 10 of this chapter during the member's term of reemployment.

Section 39. Section 19-17-112, MCA, is amended to read:

"19-17-112. Filing required reports -- limitations. (1) The chief or designated official of each fire company that claims eligibility under this chapter shall, on or before September 1 of each year, file with the board an annual certificate, the current year's roster, and a membership card for each new member.

(2) (a) The annual certificate is a form reporting a fire company's membership eligibility for the previous fiscal year.

(b) The annual certificate must be completed on a form prescribed by the board and contain the date of organization of the fire company and the full name, ~~social security number,~~ and date of birth of each member of the fire company who was a member for the entire fiscal year and who successfully completed 30 hours of training during the preceding fiscal year, as required by 19-17-108.

(c) The chief or designated official shall subscribe and verify that the fire company and members qualified under 19-17-108 and 19-17-109.

(d) The board shall maintain the certificate for the purpose of establishing service for members and eligibility for benefits.

(3) The roster must be signed by the fire chief or designated official, filed with the board, and contain information in writing that provides the names of the fire company, its date of organization, officers, and roll of active and inactive members for the current fiscal year. A roster may be updated to report new members but may not be retroactive.

(4) A membership form must be completed and filed with the board for each member who was a member on or before July 1, 2011, and for each new member who joins after July 1, 2011.

(5) The current fire chief shall file any late or amended annual certificates and the associated certified training records within 3 years of the original annual certificate due date. An annual certificate may be amended only once. The board shall consider and may approve late filings. Information provided to the board by the fire chief must be in accordance with the board's rules.

(6) The current fire chief may request to appear before the board for consideration of the request to file a late or amended annual certificate."

Section 40. Section 19-17-407, MCA, is amended to read:

"19-17-407. Exemption from taxation and legal process. (1) The amount determined pursuant to 15-30-2110(2)(c) of benefits received under this part is exempt from state, county, and municipal taxation.

(2) Benefits Except as provided in 19-2-907, 19-2-909, and subsection (3) of this section, benefits received under this part are not subject to execution, garnishment, attachment, or any other process.

(3) The right of a person to any benefit or payment and the money in the plan's pension trust fund associated with that benefit or payment is subject, once the person is entitled to distribution of the benefit or payment, to:

(a) a United States tax lien or levy for past-due taxes; and

(b) execution, garnishment, attachment, levy, or other process related to the collection of criminal fines and orders of restitution imposed under federal law as provided for in 18 U.S.C. 3613."

Section 41. Section 19-17-412, MCA, is amended to read:

"19-17-412. Return to service. (1) A retired member may return to service with a fire company without loss of benefits.

(2) A retired member returning to service under this section is not considered an active member ~~earning~~ of the fire company and may not earn any additional credit for service.

(3) The fire chief shall prescribe the duties of any retired member returning to service."

Section 42. Section 19-17-502, MCA, is amended to read:

"19-17-502. Medical expenses. (1) A member who claims medical expenses under this section shall submit a report of injury and medical claim on a form provided by the board in accordance with the board's rules and a copy of the bill from the medical provider or a receipt for payment of medical expenses. The claim must be verified by the member and by competent medical authority. The claim must be submitted within 12 months from the date of incurring the injury or illness.

(2) The claim must contain:

(a) the name, social security number, and address of the member;

(b) the date, place, and manner of incurring the injury or illness;

(c) the name and address of the attending physician, surgeon, or nurse, if any;

(d) the dates of hospitalization, if hospitalized;

(e) an affidavit from the attending physician, surgeon, or nurse that describes the nature of the injury or illness, the number and dates of visits, and the expenses;

(f) if hospitalized, an affidavit from competent authority stating the nature of the injury or illness, the dates of hospitalization, and the expenses; and

(g) an affidavit from the chief or designated official of the fire company stating that the member was, at the time of the injury or illness, a member of the fire company and that the injury or illness was incurred in the line of duty as described in 19-17-105.

(3) The board shall authorize payment of some or all medical expenses resulting from an injury or illness that was incurred in the line of duty as described in 19-17-105 and that required the services of a physician, surgeon, or nurse, whether or not the member was hospitalized. The payments must equal the member's necessary and reasonable out-of-pocket medical expenses that resulted directly from the injury or illness and that were billed within 36 months following the date of the injury or illness.

(4) A total claim filed pursuant to subsection (1) may not exceed \$25,000.

(5) If an injury incurred in the line of duty results in the loss by amputation of an arm, hand, leg, or foot, the enucleation of an eye, or the loss of any natural teeth, the board shall authorize either a payment for the cost of a prosthesis or a payment of \$1,500 to help defray the cost of a prosthesis, whichever is less.

(6) The prosthesis may be replaced when necessary, but not more often than every 60 months. The board shall authorize payment of not more than \$1,500 of the replacement costs."

Section 43. Section 19-17-503, MCA, is amended to read:

"19-17-503. Funeral expenses. (1) A person claiming the funeral expenses under this section shall submit a claim form, the death certificate, and either a copy of the bill from the funeral director or a receipt for payment of the funeral expenses. The claim must be submitted on a form provided by the board, in accordance with the board's rules, and must be verified by the claimant. The claim must be filed with the board within 12 months from the member's date of death.

(2) The claim must contain:

(a) the name, social security number, and address of the member; and

(b) an affidavit from the chief or designated official of the fire company stating that the member was, at the time of death, a member of the fire company and that the death occurred in the line of duty as described in 19-17-105.

(3) ~~The board shall authorize~~ When a claim under this section is received and approved by the board,

payment of reasonable expenses or \$1,500, whichever is less, to help defray the funeral expense of the member whose death occurred in the line of duty, as described in 19-17-105, must be made directly to the appropriate provider of the funeral services or, if a receipt is provided for the full payment of funeral expenses, to the claimant."

Section 44. Repealer. The following sections of the Montana Code Annotated are repealed:

- 19-8-1104. Minimum monthly benefit.
- 19-17-506. Payment of medical and funeral expenses.

Section 45. Codification instruction. (1) [Sections 19 and 20] are intended to be codified as an integral part of Title 19, chapter 6, and the provisions of Title 19, chapter 6, apply to [sections 19 and 20].

(2) [Section 23] is intended to be codified as an integral part of Title 19, chapter 7, part 11, and the provisions of Title 19, chapter 7, part 11, apply to [section 23].

(3) [Sections 26 and 27] are intended to be codified as an integral part of Title 19, chapter 8, and the provisions of Title 19, chapter 8, apply to [sections 26 and 27].

(4) [Section 28] is intended to be codified as an integral part of Title 19, chapter 9, part 1, and the provisions of Title 19, chapter 9, part 1, apply to [section 28].

(5) [Sections 32 and 33] are intended to be codified as an integral part of Title 19, chapter 9, part 13, and the provisions of Title 19, chapter 9, part 13, apply to [sections 32 and 33].

(6) [Section 38] is intended to be codified as an integral part of Title 19, chapter 13, part 11, and the provisions of Title 19, chapter 13, part 11, apply to [section 38].

Section 46. Effective date. [This act] is effective July 1, 2017.

- END -

I hereby certify that the within bill,
HB 0101, originated in the House.

Speaker of the House

Signed this _____ day
of _____, 2017.

Chief Clerk of the House

President of the Senate

Signed this _____ day
of _____, 2017.

HOUSE BILL NO. 101

INTRODUCED BY W. MCKAMEY

BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

AN ACT GENERALLY REVISING LAWS RELATED TO THE ADMINISTRATION OF PUBLIC EMPLOYEE RETIREMENT SYSTEMS; REVISING PROVISIONS OF THE PUBLIC EMPLOYEES', JUDGES', HIGHWAY PATROL OFFICERS', SHERIFFS', GAME WARDENS' AND PEACE OFFICERS', MUNICIPAL POLICE OFFICERS', AND FIREFIGHTERS' UNIFIED RETIREMENT SYSTEMS; REVISING PROVISIONS OF THE VOLUNTEER FIREFIGHTERS' COMPENSATION ACT; CREATING WORKING RETIREE HOUR LIMITS AND SECOND RETIREMENT BENEFITS IN ALL SYSTEMS IN WHICH THEY DO NOT CURRENTLY EXIST; CLARIFYING ELIGIBILITY FOR SERVICE PURCHASES; CLARIFYING LUMP-SUM PAYOUTS; PROVIDING FOR THE SUSPENSION OF SUSPECT BENEFIT PAYMENTS; PROVIDING FOR RECOVERY OF OVERPAYMENTS; CLARIFYING WHEN RETIREMENT BENEFITS ARE SUBJECT TO ATTACHMENT; ASSESSING ACTUARIAL COSTS TO TERMINATING EMPLOYERS; REVISING THE AGE LIMIT FOR CERTAIN DISABILITY PAYMENTS; CLARIFYING RETURN TO SERVICE PROVISIONS FOR RETIRED VOLUNTEER FIREFIGHTERS; AMENDING SECTIONS 19-2-602, 19-2-603, 19-2-704, 19-2-902, 19-2-903, 19-2-904, 19-2-907, 19-2-1004, 19-3-108, 19-3-201, 19-3-403, 19-3-413, 19-3-1105, 19-3-1106, 19-3-2141, 19-5-502, 19-6-101, 19-6-1005, 19-7-101, 19-7-1101, 19-8-101, 19-8-1003, 19-9-1204, 19-9-1207, 19-9-1301, 19-13-104, 19-13-212, 19-13-302, 19-13-1101, 19-17-112, 19-17-407, 19-17-412, 19-17-502, AND 19-17-503, MCA; REPEALING SECTIONS 19-8-1104 AND 19-17-506, MCA; AND PROVIDING AN EFFECTIVE DATE.