



**Montana Legislative Services Division**  
**Legal Services Office**

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**TO:** State Administration and Veterans' Affairs Interim Committee  
**FROM:** K. Virginia Aldrich  
**DATE:** May 4, 2016  
**RE:** Legislative Administrative Rule Review Report

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Pursuant to 5-5-228, MCA, the State Administration and Veterans' Affairs Interim Committee is responsible for reviewing administrative rules within its jurisdiction. Staff for the State Administration and Veterans' Affairs Interim Committee has prepared this report for informational purposes only. This report does not represent any action or opinion of the State Administration and Veterans' Affairs Interim Committee and does not preclude additional action that may be taken by the State Administration and Veterans' Affairs Interim Committee pursuant to its authority under the Montana Administrative Procedure Act (Title 2, chapter 4, MCA).

**MAR NOTICE NUMBER:** 2-43-537

**AGENCY/BOARD:** Public Employees' Retirement Board

**RULE CLASSIFICATION:** (e.g. substantive/interpretative/emergency/temporary):  
Substantive

**SUBJECT:** Adoption by reference of the State of Montana Public Employee Defined Contribution Plan Document

**NOTICE DESCRIPTION:** (e.g. proposal notice/adoption notice): Notice of Proposed Amendment

**SUMMARY OF RULE(S):** The Public Employees' Retirement Board of the State of Montana is proposing to amend one rule. The proposed amendment updates a current rule that adopts by reference the State of Montana Public Employee Defined Contribution Plan Document from a previous version to a version approved on December 22, 2015, and subsequently amended on April 14, 2016, retroactive to December 22, 2015.

On December 22, 2015, the Montana Public Employees' Retirement Board revised the plan document to (1) update the definition of an eligible employee to include that the member has an election to participate in the plan under section 19-3-2112, MCA, to reflect that an individual employed in two or more positions, one of which is covered by PERS and another covered by Montanan University System's Retirement Plan (MUS-RP), could still be eligible for the Defined Contribution plan; (2) update election and contributions provisions for consistency and compliance with recent Montana legislative changes; and (3) make changes to the limitations on contributions to ensure that the DCRP remains a qualified retirement plan under the IRS. The full text of the December 22, 2015, plan changes is available upon request if members wish to review the entirety of the changes, rather than in summary.

On April 14, 2016, the Montana Public Employees' Retirement Board revised the plan document in accordance with its tax counsel's advice that two changes be made, including a grammatical clarification that the .135% additional employer contributions occurred as of July 1, 2007, and July 1, 2009. The second change reflected recent changes in federal law that affect non-spouse beneficiaries of members who die prior to commencement of distributions from the member's DCRP account. The beneficiary must take a lump sum or rollover within 60 days of notification that the participant has died, rather than within a year of the participant's death, regardless of notification date.

**NOTES:** A public hearing is not contemplated. The public comment period ends on June 3, 2016.

**FULL TEXT OF NOTICE:** The full text of the notice proposal is available online at <http://www.mtrules.org/gateway/ShowNoticeFile.asp?TID=7151>.

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