



AN ACT GENERALLY REVISING LAWS RELATED TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEMS ADMINISTERED BY THE PUBLIC EMPLOYEES' RETIREMENT BOARD; PROVIDING FOR RETIREMENT FROM NONLEGISLATIVE EMPLOYMENT; REVISING THE POST-TERMINATION DEADLINE TO APPLY FOR DISABILITY RETIREMENT; PROVIDING THAT DUTY-RELATED DISABILITY RETIREMENT BENEFITS DO NOT CONVERT TO NORMAL RETIREMENT ON REACHING NORMAL RETIREMENT AGE; ASSESSING INTEREST ON PAYROLL REPORTING ERRORS THAT REQUIRE RETROACTIVE CONTRIBUTIONS; PRORATING SERVICE PURCHASES WHEN A MEMBER STOPS MAKING INSTALLMENT PAYMENTS; REMOVING THE PROVISION ALLOWING THE RENOUNCEMENT OF BENEFITS; CLARIFYING THAT DISABILITY RETIREMENT BENEFITS CANNOT BEGIN PRIOR TO THE COMPLETION OF AN APPLICATION; CLARIFYING THE APPLICATION OF EXCESS EARNINGS FOR CALCULATION OF HIGHEST AND FINAL AVERAGE COMPENSATION; REVISING REQUIRED MINIMUM DISTRIBUTION AND INHERITED ACCOUNT REQUIREMENTS TO COMPLY WITH FEDERAL LAW; DEFINING ALLOWANCE; REVISING THE DEFINITION OF COMPENSATION; EXEMPTING RETIRED MEMBERS UNDER SUBPOENA IN LEGAL PROCEEDINGS RELATED TO PRIOR EMPLOYMENT FROM WORKING RETIREE PROVISIONS; REVISING THE EXCLUSION OF BONUSES FROM COMPENSATION IN THE JUDGES' RETIREMENT SYSTEM, THE HIGHWAY PATROL OFFICERS' RETIREMENT SYSTEM, THE GAME WARDENS' AND PEACE OFFICERS' RETIREMENT SYSTEM, THE MUNICIPAL POLICE OFFICERS' RETIREMENT SYSTEM, AND THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM; ALIGNING WORKING RETIREE LIMITS IN THE SHERIFFS' RETIREMENT SYSTEM WITH SIMILAR PROVISIONS IN OTHER RETIREMENT SYSTEMS; CLARIFYING THAT TERMINATION OF SERVICE IS NECESSARY PRIOR TO RETIREMENT FROM THE GAME WARDENS' AND PEACE OFFICERS' RETIREMENT SYSTEM; CLARIFYING THE SURVIVORSHIP BENEFIT TO BENEFICIARIES OF INACTIVE MEMBERS OF THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM WITH LESS THAN 20 YEARS OF SERVICE; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 5-2-304, 19-2-303, 19-2-406,

19-2-506, 19-2-704, 19-2-801, 19-2-908, 19-2-1005, 19-2-1007, 19-3-108, 19-3-412, 19-3-505, 19-3-1103, 19-3-1106, 19-5-101, 19-5-802, 19-6-101, 19-7-101, 19-7-1101, 19-8-101, 19-8-601, 19-8-1003, 19-9-104, 19-9-1101, 19-13-104, AND 19-13-902, MCA; AND PROVIDING EFFECTIVE DATES.

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

Section 1. Section 5-2-304, MCA, is amended to read:

"5-2-304. Participation in public retirement systems. (1) The purpose of this section is to allow a person who is elected or appointed to the Montana legislature and who is also a member of a retirement system provided for in Title 19, chapter 3, 5, 6, 7, 8, 9, 13, 20, or 21, by virtue of the person's nonlegislative employment to continue the person's participation in the public retirement system of which the person is a member.

(2) This section is not intended to provide duplicate credit for the same service in two retirement systems supported wholly or in part by public funds. This section does not affect contribution rates or benefit payments specifically provided for in the laws governing the operation of individual retirement systems.

(3) A person who is an active member of a retirement system provided for in Title 19, chapter 3, 5, 6, 7, 8, 9, or 13, by virtue of the person's nonlegislative employment and who is receiving service credit in that system pursuant to subsection (4) may elect to retire from that system on termination of service from their nonlegislative employment, but the person shall make a one-time, irrevocable election to decline further participation in that system while continuing to be engaged in official duties as a legislator.

~~(3)~~(4) (a) A person who is an inactive or retired member of a retirement system provided for in Title 19, chapter 5, 6, 7, 8, 9, 13, 20, or 21, and who is elected or appointed to be a legislator may:

(i) return to active membership in the system of which the person is an inactive or retired member under the requirements of that system; or

(ii) remain an inactive or retired member of the retirement system and become an active member of the public employees' retirement system pursuant to 19-3-413.

(b) A person who is an inactive or retired member of the public employees' retirement system provided for in Title 19, chapter 3, and who is elected or appointed to the legislature may return to active

membership in the public employees' retirement system but cannot simultaneously be an inactive or retired member of the system as a result of prior covered terminated employment and an active member of the retirement system under 19-3-413 or this section.

~~(4)(5)~~ (a) A person who is an active member of a public retirement system governed by state law and who is elected or appointed to be a legislator may, but is not required to, continue the person's participation in that public retirement system while engaged in official duties as a legislator.

(b) To continue participation as an active member in the public retirement system, a legislator shall, within 90 days of taking office and in a manner prescribed by the appropriate board, file an irrevocable written election with the teachers' retirement board or the public employees' retirement board.

~~(5)(6)~~ A legislator who elects to continue participation as an active member as provided in ~~subsection~~ ~~(4)~~ subsection (5) shall continue the payments into the fund of the retirement system at the rate currently in effect in the system based on the legislator's monthly salary as a member of that system.

~~(6)(7)~~ The state contribution must be made by legislative appropriation. It must equal the appropriate employer contribution at the rate currently in effect in the system."

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

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

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

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

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

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

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

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

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

(8) "Allowance" means predetermined remuneration from the employer to the employee for expenses incurred while rendering services or to defray higher than normal costs for necessities, such as housing or travel.

~~(8)~~(9) "Annuity" means:

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

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

~~(9)~~(10) "Banked holiday time" means the hours reported for work performed on a holiday that the employee may use for equivalent time off or that may be paid to the employee as specified by the employer's policy.

~~(10)~~(11) "Benefit" means:

(a) the service retirement benefit, early retirement benefit, or disability retirement or survivorship benefit payment provided by a defined benefit retirement plan; or

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

~~(11)~~(12) "Board" means the public employees' retirement board provided for in 2-15-1009.

~~(12)~~(13) "Contingent annuitant" means:

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

(b) under option 4 provided for in 19-3-1501, a natural person, charitable organization, estate, or

trust that may receive a continuing monthly benefit after the death of a retired member.

~~(13)~~(14)"Covered employment" means employment in a covered position.

~~(14)~~(15)"Covered position" means a position in which the employee must be a member of the retirement system except as otherwise provided by law.

~~(15)~~(16)"Defined benefit retirement plan" or "defined benefit plan" means a plan within the retirement systems provided for pursuant to 19-2-302 that is not the defined contribution retirement plan.

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

~~(17)~~(18)"Department" means the department of administration.

~~(18)~~(19)"Designated beneficiary" means the person, charitable organization, estate, or trust for the benefit of a natural person designated by a member or payment recipient to receive any survivorship benefits, lump-sum payments, or benefit from a retirement account upon the death of the member or payment recipient, including annuities derived from the benefits or payments.

~~(19)~~(20)"Direct rollover" means a payment by the retirement plan to the eligible retirement plan specified by the distributee or a payment from an eligible retirement plan to the retirement plan specified by the distributee.

~~(20)~~(21)"Disability" or "disabled" means a total inability of the member to perform the member's duties by reason of physical or mental incapacity. The disability must be incurred while the member is an active member and must be one of permanent duration or of extended and uncertain duration, as determined by the board on the basis of competent medical opinion.

~~(24)~~(22)"Distributee" means:

- (a) a member;
- (b) a member's surviving spouse;
- (c) a member's spouse or former spouse who is the alternate payee under a family law order as defined in 19-2-907; or
- (d) effective January 1, 2007, a member's nonspouse beneficiary who is a designated beneficiary as defined by section 401(a)(9)(E) of the Internal Revenue Code, 26 U.S.C. 401(a)(9)(E).

~~(22)~~(23)"Early retirement benefit" means the retirement benefit payable to a member following early retirement and is the actuarial equivalent of the accrued portion of the member's service retirement benefit.

~~(23)~~(24)"Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

- (a) an individual retirement account described in section 408(a) of the Internal Revenue Code, 26 U.S.C. 408(a);
- (b) an individual retirement annuity described in section 408(b) of the Internal Revenue Code, 26 U.S.C. 408(b);
- (c) an annuity plan described in section 403(a) of the Internal Revenue Code, 26 U.S.C. 403(a);
- (d) a qualified trust described in section 401(a) of the Internal Revenue Code, 26 U.S.C. 401(a);
- (e) effective January 1, 2002, an annuity contract described in section 403(b) of the Internal Revenue Code, 26 U.S.C. 403(b);
- (f) effective January 1, 2002, a plan eligible under section 457(b) of the Internal Revenue Code, 26 U.S.C. 457(b), that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from a plan under this title; or
- (g) effective January 1, 2008, a Roth IRA described in section 408A of the Internal Revenue Code, 26 U.S.C. 408A.

~~(24)~~(25)"Eligible rollover distribution":

- (a) means any distribution of all or any portion of the balance from a retirement plan to the credit of the distributee, as provided in 19-2-1011;
- (b) effective January 1, 2002, includes a distribution to a surviving spouse or to a spouse or former spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Internal Revenue Code, 26 U.S.C. 414(p).

~~(25)~~(26)"Employee" means a person who is employed by an employer in any capacity and whose salary is being paid by the employer or a person for whom an interlocal governmental entity is responsible for paying retirement contributions pursuant to 7-11-105.

~~(26)~~(27)"Employer" means a governmental agency participating in a retirement system enumerated in

19-2-302 on behalf of its eligible employees. The term includes an interlocal governmental entity identified as responsible for paying retirement contributions pursuant to 7-11-105.

~~(27)~~(28) "Essential elements of the position" means fundamental job duties. An element may be considered essential because of but not limited to the following factors:

- (a) the position exists to perform the element;
- (b) there are a limited number of employees to perform the element; or
- (c) the element is highly specialized.

~~(28)~~(29) "Excess earnings" means the difference, if any, between reported compensation and the limits provided in 19-2-1005(2) used to calculate a member's highest average compensation or final average compensation.

~~(29)~~(30) "Fiscal year" means a plan year, which is any year commencing with July 1 and ending the following June 30.

~~(30)~~(31) "Inactive member" means a member who terminates service and does not retire or take a refund of the member's accumulated contributions.

~~(34)~~(32) "Internal Revenue Code" has the meaning provided in 15-30-2101.

~~(32)~~(33) "Member" means either:

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

~~(33)~~(34) "Membership service" means the periods of service that are used to determine eligibility for retirement or other benefits.

~~(34)~~(35) (a) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost method required to fund accruing benefits for members of a defined benefit retirement plan during any year in the future.

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

~~(35)~~(36) "Normal retirement age" means the age at which a member is eligible to immediately receive a retirement benefit based on the member's age or both age and length of service, as specified under the

member's retirement system, without disability and without an actuarial or similar reduction in the benefit.

~~(36)~~(37) "Pension" means benefit payments for life derived from contributions to a retirement plan made from state- or employer-controlled funds.

~~(37)~~(38) "Pension trust fund" means a fund established to hold the contributions, income, and assets of a retirement system or plan in public trust.

~~(38)~~(39) "Plan choice rate" means the amount of the employer contribution as a percentage of payroll covered by the defined contribution plan members that is allocated to the public employees' retirement system's defined benefit plan pursuant to 19-3-2117 to actuarially fund the unfunded liabilities and the normal cost rate changes in a defined benefit plan resulting from member selection of the defined contribution plan.

~~(39)~~(40) "Regular contributions" means contributions required from members under a retirement plan.

~~(40)~~(41) "Regular interest" means interest at rates set from time to time by the board.

~~(41)~~(42) "Retirement" or "retired" means the status of a member who has:

- (a) terminated from service; and
- (b) received and accepted a retirement benefit from a retirement plan.

~~(42)~~(43) "Retirement account" means an individual account within the defined contribution retirement plan for the deposit of employer and member contributions and other assets for the exclusive benefit of a member of the defined contribution plan or the member's beneficiary.

~~(43)~~(44) "Retirement benefit" means:

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

(b) in the case of the defined contribution plan, a benefit as defined in subsection ~~(40)(b)~~ (11)(b).

~~(44)~~(45) "Retirement plan" or "plan" means either a defined benefit plan or a defined contribution plan under one of the public employee retirement systems enumerated in 19-2-302.

~~(45)~~(46) "Retirement system" or "system" means one of the public employee retirement systems enumerated in 19-2-302.

~~(46)~~(47) "Service" means employment of an employee in a position covered by a retirement system.

~~(47)~~(48) "Service credit" means the periods of time for which the required contributions have been made

to a retirement plan and that are used to calculate retirement benefits or survivorship benefits under a defined benefit retirement plan.

~~(48)~~(49)"Service retirement benefit" means the retirement benefit that the member may receive at normal retirement age.

~~(49)~~(50)"Statutory beneficiary" means the surviving spouse or dependent child or children of a member of the highway patrol officers', municipal police officers', or firefighters' unified retirement system who are statutorily designated to receive benefits upon the death of the member.

~~(50)~~(51)"Supplemental cost" means an element of the total actuarial cost of a defined benefit retirement plan arising from benefits payable for service performed prior to the inception of the retirement plan or prior to the date of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure to fund or otherwise recognize normal cost accruals or interest on supplemental costs. These costs are included in the unfunded actuarial liabilities of the retirement plan.

~~(51)~~(52)"Survivorship benefit" means payments for life to the statutory or designated beneficiary of a deceased member who died while in service under a defined benefit retirement plan.

~~(52)~~(53)"Termination of employment", "termination from employment", "terminated employment", "terminated from employment", "terminate employment", or "terminates employment" means that:

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

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

~~(53)~~(54)"Termination of service", "termination from service", "terminated from service", "terminated service", "terminating service", or "terminates service" means that:

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

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

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

(d) the member has been paid all compensation for compensatory leave, sick leave, or annual

leave to which the member was entitled. For the purposes of this subsection ~~(53)~~ (54), compensation does not mean compensation as a result of a legal action, court order, or settlement to which the board was not a party.

~~(54)~~(55) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a defined benefit retirement plan's actuarial liabilities at any given point in time over the value of its cash and investments on that same date.

~~(55)~~(56) "Vested account" means an individual account within a defined contribution plan that is for the exclusive benefit of a member or the member's beneficiary. A vested account includes all contributions and the income on all contributions in each of the following accounts:

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

~~(56)~~(57) "Vested member" or "vested" means:

- (a) with respect to a defined benefit plan, except as provided in subsection ~~(56)(b)~~ (57)(b), a member or the status of a member who has at least 5 years of membership service;
- (b) with respect to a member of the highway patrol officers' retirement system established in Title 19, chapter 6, who was hired on or after July 1, 2013, a member or the status of a member who has at least 10 years of membership service; or
- (c) with respect to the defined contribution plan, a member or the status of a member who meets the minimum membership service requirement of 19-3-2116.

~~(57)~~(58) "Written application" or "written election" means a written instrument, prescribed by the board or required by law, properly signed and filed with the board, that contains all required information, including documentation that the board considers necessary.

~~(58)~~(59) "Written instrument" includes an electronic record containing an electronic signature, as defined in 30-18-102."

Section 3. Section 19-2-406, MCA, is amended to read:

"19-2-406. Disability retirement -- application -- determination -- benefit conversion -- rules. (1)

- (a) An active or inactive member may apply for disability retirement in a manner prescribed by the board.

However, an application may also be filed on the member's behalf by the head of the office or department in which the member is or was last employed, by any other individual, or by the board.

(b) The application must be filed within ~~4 months~~ ~~6 months~~ 12 months after the member's termination from employment ~~unless the member is disabled continuously from the date of termination from employment to the date of the application.~~

(2) The board shall determine whether a member has become disabled. In the discharge of its duty regarding determinations, the board, any member of the board, or any authorized representative of the board may order medical examinations, conduct hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records considered necessary as evidence in connection with a claim for disability retirement. Subpoenas must be issued and enforced pursuant to 2-4-104 of the Montana Administrative Procedure Act.

(3) The board shall adopt rules requiring employers to identify and explain the essential elements of a member's position, any accommodations that were or can be made in compliance with the Americans With Disabilities Act of 1990 (42 U.S.C. 12101, et seq.), and the effectiveness of the accommodations.

(4) The board shall retain medical personnel to advise it in assessing the nature and extent of disabling conditions while reviewing claims for disability retirement.

(5) The disability retirement benefit paid to a member of the defined benefit plan provided for in Title 19, chapter 3, 9, or 13, must be converted to a service retirement benefit, without recalculation of the monthly benefit amount, when the member ~~has attained~~ attains normal retirement age. The board shall notify the member in writing as to the change in status.

(6) The disability retirement benefit paid to a member of the defined benefit plan provided for in Title 19, chapter 5, 6, 7, or 8, remains a disability retirement benefit when the member attains normal retirement age, but the disability retirement benefit is no longer subject to a medical examination of the member."

Section 4. Section 19-2-506, MCA, is amended to read:

"19-2-506. Payment of contributions by employers -- accompanying reports -- penalty -- liability. (1) The board shall prescribe by rule the procedure for payment of retirement contributions for the

retirement systems administered by the board. Each employer shall pick up the employee contributions and remit the employer and employee contributions required by the member's retirement system. Payments must be considered delinquent until both the required contributions and the valid payroll report are received by the board.

(2) The board may collect payments delinquent under subsection (1) with an interest penalty at the rate of 9% a year or \$10 a day, whichever is greater. The board may, in its discretion, waive the penalty. The collection may be made by either:

- (a) an action in a court of competent jurisdiction against the employer; or
- (b) deductions, at the request of the board, from any other money payable to the employer by any agency or fund of the state.

(3) (a) The board shall prescribe by rule the procedure for submitting employer reports. The reports must include data about member and nonmember employees who work for the employer.

(b) The rules must specify the employee categories to be reported, the data required, the method of reporting, the reporting period, and the frequency of reports needed to meet the demands of the relevant retirement system or plan.

(c) The board may establish by rule the penalty fees for noncompliance in reporting any of the required information and the procedure for collection of the fees.

(4) Employer reporting errors that are corrected at a later date must be accompanied by any contributions and interest due in accordance with board rule.

~~(4)~~(5) Each employer shall furnish additional information concerning members that the board may request in connection with claims by members for benefits or service under a retirement system.

~~(5)~~(6) The board is not responsible or liable for any incorrect reporting or erroneous payment of contributions by an employer.

~~(6)~~(7) The board, from time to time, may send materials to an employer for redistribution to employees. To facilitate distribution, each employer shall provide the board with a point of contact responsible for distributing the materials."

Section 5. 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) 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. If a member making installment payments by personal check ceases to make those payments, the board shall prorate the service credit based on the amount paid.

(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 6. Section 19-2-801, MCA, is amended to read:

"19-2-801. Designation of beneficiary. (1) In the absence of any statutory beneficiaries, designated beneficiaries are the natural persons, charitable organizations, estate of the payment recipient, or trusts for the benefit of natural living persons that the member or payment recipient designates on the membership form provided by the board.

(2) Unless otherwise provided by this title or by a valid temporary restraining order issued pursuant to 40-4-121, an order issued pursuant to 40-4-126, or an order issued pursuant to Title 40, chapter 15, a member or payment recipient may revoke the designation and name different designated beneficiaries by filing with the board a new membership form provided by the board.

(3) If a person returns to covered employment in the same retirement system pursuant to 19-2-603, the person shall complete a new membership form and file it as provided in subsection (2). However, until the new membership form is filed, the board shall reference the membership form executed by the person prior to initial termination of membership for the same purposes as prior to termination. Beneficiaries designated on that membership form continue to be beneficiaries until the new membership form is filed.

(4) (a) Except as provided in subsections (4)(b) and (4)(c), the beneficiary designation on the most recent membership form filed with the board is effective for all purposes until the member retires.

(b) A member may elect to either override or retain the member's existing beneficiary designation when completing a membership form for temporary or secondary employment with another employer within the same Title 19 retirement system.

(c) When a member retires, the designated beneficiaries or contingent annuitants named on the retirement application become effective.

(5) If a statutory or designated beneficiary predeceases the member or payment recipient, the predeceased beneficiary's share must be paid to the remaining statutory or designated beneficiaries in amounts

proportional to each remaining statutory or designated beneficiary's original share.

(6) A statutory or designated beneficiary who renounces an interest in the payment rights of a member or payment recipient will be considered, with respect to that interest, as having predeceased the member or payment recipient.

~~(7) A contingent annuitant of a retired member who elected option 2, 3, or 4 pursuant to 19-3-1501, 19-5-701, 19-7-1001, or 19-8-801 may not renounce the contingent annuitant's interest in the payment rights of the member."~~

Section 7. Section 19-2-908, MCA, is amended to read:

"19-2-908. Time of commencement of benefit -- rulemaking. (1) (a) The board shall grant a benefit to any active or inactive member who is vested, or the member's statutory or designated beneficiary, who has fulfilled all eligibility requirements, terminated service, and filed the appropriate written application with the board. However, the board may, on its own accord and without a written application, begin benefit payments to a member or beneficiary in order to comply with section 401(a)(9) of the Internal Revenue Code.

(b) A member may apply for retirement benefits before termination from employment, but commencement of the benefits must be as provided in this section.

(2) (a) Except as provided in subsection (2)(b), the service retirement benefit may commence on the first day of the month following the eligible member's last day of employment or, if requested by the member in writing, on the first day of a later month.

(b) If an elected official's term of office expires before the 15th day of the month, the official may elect that service retirement benefits from a defined benefit plan commence on the first day of the month following the official's last full month in office. An official electing this option shall file a written application with the board. An official electing this option may not earn membership service, service credit, or compensation for purposes of calculating highest average compensation or final average compensation, as defined under the provisions of the appropriate retirement system, in the partial month ending the official's term, and compensation earned in that partial month is not subject to employer or employee contributions.

(3) (a) Subject to the provisions of ~~subsection (3)(b)~~ subsections (1) and (3)(b), the disability retirement benefit payable to a member must commence on the day following the member's termination from

employment.

(b) If a disabled member continues with a purchase of service or chooses to purchase service following termination of employment, the member's disability benefit may not commence until the service purchase is completed.

(4) If a member begins receiving retirement benefits payments later than when the member is initially eligible, the guaranteed annual benefit adjustment payable pursuant to 19-3-1605, 19-5-901, 19-6-710, 19-6-711, 19-7-711, 19-8-1105, 19-9-1009, 19-9-1010, 19-9-1013, 19-13-1010, and 19-13-1011 does not commence until January 1 of the year after the year in which the member has received a monthly retirement benefit payment in each of the year's 12 months. The guaranteed annual benefit adjustment may not be paid retroactively.

(5) A designated beneficiary eligible to receive a death payment may instead elect a survivorship benefit if the designated beneficiary is a natural person and notifies the board of the designated beneficiary's election in writing within 90 days after the designated beneficiary receives notice that the designated beneficiary is eligible to receive a death payment. Monthly survivorship benefits from a defined benefit plan must commence on the day following the death of the member.

(6) Estimated and finalized benefit payments must be issued as provided in rules adopted by the board.

(7) With respect to the defined contribution plan, the board shall adopt rules regarding the commencement of benefits that are consistent with applicable provisions of the Internal Revenue Code and its implementing regulations."

Section 8. Section 19-2-1005, MCA, is amended to read:

"19-2-1005. Compensation limit. (1) A retirement system or plan subject to this chapter may not take into account compensation of a member in excess of the amount permitted in section 401(a)(17) of the Internal Revenue Code, 26 U.S.C. 401(a)(17), as adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Internal Revenue Code, 26 U.S.C. 401(a)(17)(B).

(2) (a) Except as provided in subsection (2)(b), for a member hired on or after July 1, 2013, when calculating the highest average compensation or final average compensation for a member with at least the

applicable 48 or 72 months of service credit or the final average compensation for a member with 48 months of service credit, a retirement system or plan subject to this chapter may not include the following amounts of excess earnings in the calculation of the member's highest average compensation or final average compensation:

(i) for the first year included in the calculation, any compensation that is greater than 110% of the compensation paid to the member in the previous year; and

(ii) for each subsequent year included in the calculation, any compensation that is greater than 110% of the compensation included in the calculation for the previous year.

(b) In determining a member's retirement benefit, total excess earnings, if any, must be divided by the member's total months of service credit and added to each month's compensation included in the member's highest average compensation or final average compensation as limited under subsection (2)(a)."

Section 9. Section 19-2-1007, MCA, is amended to read:

"19-2-1007. Required distributions. The benefits payable by a retirement system or plan subject to this chapter are subject to the requirements of section 401(a)(9) of the Internal Revenue Code as follows:

(1) (a) Benefits must begin by April 1 of the calendar year following the later of:

(i) the calendar year in which the member reaches:

(A) 70 1/2 years of age if the member was born before July 1, 1949; or

(B) 72 years of age if the member was born after June 30, 1949; or

(C) 73 years of age if the member was born after December 31, 1950, and turns 73 before 2033; or

(D) 75 years of age if the member turns 74 after 2032; or

(ii) the calendar year following the calendar year in which the member terminates employment.

(b) If a member fails to apply for retirement benefits by April 1 of the year following the calendar year in which benefits must begin under subsection (1)(a), the board shall begin distribution of the benefits as required by the retirement system or plan to which the member belongs or, subject to subsection (2), as an option 4 benefit in chapters 3, 5, 7, and 8 of this title.

(2) The member's entire interest in a retirement system or plan must be distributed over the life of the member or the lives of the member and a designated beneficiary or over a period not extending beyond the

life expectancy of the member or the life expectancy of the member and a designated beneficiary. ~~Death benefits must be distributed in accordance with section 401(a)(9) of the Internal Revenue Code and the regulations implementing that section.~~

(3) The life expectancy of a member or the member's beneficiary may not be recalculated after payment of the benefits has begun.

~~(4) When a member dies after distribution of benefits has begun, the remaining portion of the member's interest must be distributed beginning within 3 months of notification to the board of the death of the member and, if necessary, the identification of the beneficiary pursuant to 19-2-802 and must be distributed at least as rapidly as under the method of distribution prior to the member's death.~~

~~(5) When a member dies before distribution of benefits has begun, the entire interest of the member must be distributed within 5 years of the member's death. The 5-year payment rule does not apply to any portion of the member's interest that is payable to a designated beneficiary over the life or life expectancy of the beneficiary and that begins within 1 year after the date of the member's death. The 5-year payment rule does not apply to any portion of the member's interest that is payable to a surviving spouse, that is payable over the life or life expectancy of the spouse, and that begins no later than the date the member would have reached 70 1/2 years of age if the member was born before July 1, 1949, or 72 years of age if the member was born after June 30, 1949. Distributions to a member's beneficiary must begin as soon as administratively feasible, but must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died. If the beneficiary has not elected the form of payment by that date, payment to the beneficiary must be made in the form of a lifetime monthly benefit payment if the beneficiary is eligible for a monthly benefit or in a lump sum if that is the only benefit payable to the beneficiary.~~

(4) Death benefits must be distributed in accordance with section 401(a)(9) of the Internal Revenue Code and the regulations implementing that section.

~~(6)(5)~~ The benefits payable must meet the minimum distribution incidental benefit requirements of section 401(a)(9)(G) of the Internal Revenue Code."

Section 10. 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(6)(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;
- (vi) bonuses provided after July 1, 2013, that are one-time or temporary payments in addition to and not considered part of base pay;
- (vii) remuneration paid to a member to reimburse the member for what would normally be the employer's costs of doing business, such as for workstation equipment or telecom services to facilitate telework; or
- (viii) per diems, maintenance, allowances, expenses, or volunteer stipends.

(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 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 11. Section 19-3-412, MCA, is amended to read:

"19-3-412. Optional membership -- employees not in elected office. (1) Except as provided in subsection (2), the following employees in covered positions that are not elected offices shall elect either to become active members 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):

- (a) employees serving in employment that does not cumulatively exceed a total of 960 hours of covered employment with all employers under this chapter in any fiscal year;
- (b) employees directly appointed by the governor;
- (c) employees working 10 months or less for the legislative branch to perform work related to the legislative session;
- (d) the chief administrative officer of any city or county; and
- (e) employees of county hospitals or rest homes.

(2) (a) An employee who is an active or inactive member at the time of employment is not eligible to make an election under subsection (1). Upon employment in the position, an employee who was an active member remains an active member for all covered employment and an employee who was an inactive member shall become an active member.

(b) A person who was a retired member before employment in a position for which membership is optional under subsection (1) is not eligible to make an election under subsection (1) and is subject to the provisions of Title 19, chapter 3, part 11.

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

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

(c) The written application must be filed with the board within 90 days after the commencement of the employee's employment.

(d) The employer shall inform the employee of the option to elect membership and retain a copy of the employee's written application.

(4) Failure to inform an employee in a position covered under subsection (1) of the employee's option to elect membership must be treated as a correction of a reporting error under 19-2-506(4). An employee who elects membership in the defined benefit plan following discovery of an omission to be informed of the optional election may choose to purchase the retroactive service under 19-3-505, and the employer is obligated to pay the employer contributions as well as accrued interest in both the employer and employee contributions.

~~(4)(5)~~ If the employee fails to file with the board the written application required under subsection (1) within the time allowed in subsection (3), the failure must be considered an election to decline membership.

~~(5)(6)~~ Except as provided in ~~subsection (6)~~ subsection (7), an employee who declines optional membership may not receive membership service or service credit for the employment for which membership was declined.

~~(6)(7)~~ An employee who declined optional membership but later becomes a member may purchase service credit for the period of time beginning with the date of employment in which membership was declined to the commencement of membership. Purchase of service credit pursuant to this subsection must comply with

19-3-505.

~~(7)~~(8) An employee who has made an election under this section may not make a new or different election under this section in any circumstance unless the employee has been terminated from employment in all optional membership positions for at least 30 days.

~~(8)~~(9) An employee accepting a position that requires membership shall become a member even if the employee previously declined membership under this section."

Section 12. Section 19-3-505, MCA, is amended to read:

"19-3-505. Purchase of previous employment with employer. (1) Subject to the provisions of this section, a member who has employment for which optional membership was declined or employment with an employer prior to the employer's contract coverage may file a written application with the board to purchase all or a portion of the employment for service credit and membership service. The application must include salary information certified by the member's employer or former employer.

(2) (a) A purchase under this section is subject to the board's approval.

(b) If the board approves the request, the member shall pay all contributions that the member would have contributed during the period of employment as if the employment had been covered by the retirement system and shall pay ~~the regular interest that would have accumulated on the amount to the time of payment~~ interest at the actuarially assumed rate of return in effect at the time of the request.

(c) The employer shall establish a policy as to the payment of retroactive employer contributions or retroactive employer contributions and regular interest and apply this policy indiscriminately for all employees and former employees. All employee appeals of discrimination are subject to the determination of the board. All successful appeals obligate the employer to pay the employer and employee contributions with accrued interest for that employee filing the appeal with the board. Each appeal must be heard on its individual merits and may not bind the employer to pay all retroactive payments for all former and present employees.

(d) If the employer establishes a policy under subsection (2)(c) of nonpayment, the member shall pay the amount not paid by the employer in order to receive service credit and membership service for the period of employment."

Section 13. Section 19-3-1103, MCA, is amended to read:

"19-3-1103. Disability benefit reduced by earnings. (1) (a) If the recipient of a disability retirement benefit is self-employed or employed in a position not covered by the retirement system, the recipient shall submit to the board an annual earnings statement, and any other documentation requested by the board, covering each month during which the recipient was self-employed or employed in the position.

(b) The amount of the recipient's retirement benefit ~~for each month of employment~~ must be reduced annually to an amount that, when added to the compensation earned by the recipient in that occupation, does not exceed the ~~amount of the recipient's monthly~~ highest average compensation at the time of the recipient's retirement.

(c) The board shall annually adjust the recipient's ~~monthly~~ highest average compensation as it was at the time of retirement by an inflationary factor equivalent to the consumer price index for all urban consumers if the recipient has been receiving a disability retirement benefit for more than 36 consecutive months.

(d) If the disability benefit recipient fails to submit the documentation as required under subsection (1)(a), the board may suspend the benefit payments until it receives the documentation.

(2) Benefit adjustments granted by the legislature may not be included in calculations required under this section."

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 employment 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; or
- (c) a retired member who receives compensation, such as witness fees, for a limited period as a necessary witness in an ongoing civil or criminal matter related to their former employment.

(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:
- (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
 - (ii) services performed by a retiree as an independent contractor for an employer participating in the system.
- (b) For the 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 19-5-101, MCA, is amended to read:

"19-5-101. Definitions. Unless a different meaning is plainly implied by the context, the following definitions apply in this chapter:

- (1) (a) "Compensation" means remuneration, as defined in 2-16-403, 3-5-211, and 3-7-222, paid to a member.
- (b) Compensation does not include bonuses provided after July 1, 2013, that are one-time; or temporary payments in addition to and not considered part of base pay.
- (2) "Current salary" means the current compensation for the office retired from.
- (3) (a) "Highest average compensation" means a member's highest average monthly compensation during any 36 consecutive months of membership service.
- (b) Excess earnings limits must be applied to the calculation of the highest average compensation pursuant to 19-2-1005(2).
- (4) "Involuntary retirement" means a retirement not for cause and before retirement age.
- (5) "Retired judge" means any judge or justice in receipt of a retirement benefit under this chapter."

Section 16. Section 19-5-802, MCA, is amended to read:

"19-5-802. Payments upon death from other than employment-related cause. (1) (a) If a vested

member dies before reaching normal retirement age, the member's designated beneficiary is entitled to a monthly survivorship benefit that is the actuarial equivalent of the retirement benefit provided in 19-5-502.

(b) If a nonvested member dies before reaching normal retirement age, the member's designated beneficiary is entitled to a lump-sum refund of the accumulated contributions standing to the member's credit at the time of the member's death.

(2) When a retired member not covered under 19-5-901 and receiving an option 1 retirement benefit under 19-5-701 dies, the member's designated beneficiary must be paid the amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement minus the total of any retirement benefits already paid from the member's account. At the designated beneficiary's request, the lump sum may be paid as an actuarially equivalent annuity that will not be subject to increases for any purpose.

(3) When a retired member covered under 19-5-901 and receiving an option 1 retirement benefit under 19-5-701 dies, the member's designated beneficiary must be paid the amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement minus the total of any retirement benefits already paid from the member's account.

(4) If a retired member who elected an option 2 or 3 benefit under 19-5-701 dies with no surviving contingent annuitant, the member's designated beneficiary or, if there is no surviving designated beneficiary, the member's estate must be paid the amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement minus the total of any retirement benefits already paid from the member's account.

(5) This section does not apply if the member was receiving a disability benefit. The member's accumulated contributions may not be reduced by the disability benefits already paid unless the disability benefit was converted to a service retirement benefit pursuant to 19-2-406(5)."

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) per diems, maintenance, allowances, and expenses; or

(ii) bonuses provided after July 1, 2013, that are one-time, or 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 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 19-7-101, 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) per diems, maintenance, allowances, and expenses; or

(ii) bonuses provided after July 1, 2013, that are one-time, or 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 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 full-time deputy sheriff with the requisite professional certification and licensing."

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

"19-7-1101. Reemployment of retired members -- contributions required. (1) A retired member who returns to ~~covered~~ 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 ~~covered~~ 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 19-7-403 and 19-7-404.

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

Section 20. 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) per diems, maintenance, allowances, and expenses; or

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

(2) "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.

(3) (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 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).

(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 21. Section 19-8-601, MCA, is amended to read:

"19-8-601. Time of retirement. (1) Subject to a member's right to a refund of the member's accumulated contributions under Title 19, chapter 2, part 6, the following members are eligible to receive a nonforfeitable service retirement benefit under 19-8-603:

- (a) a member who has terminated service, completed at least 20 years of membership service, reached 50 years of age, and files a written application with the board; or
 - (b) a vested member who terminated service before completing 20 years of membership service and applies to begin receiving a service retirement benefit upon reaching 55 years of age.
- (2) For purposes of compliance with section 411 of the Internal Revenue Code, 26 U.S.C. 411, a member described in subsection (1)(a) is treated as having attained normal retirement age and has a nonforfeitable right to the member's service retirement."

Section 22. Section 19-8-1003, MCA, is amended to read:

"19-8-1003. Nonduty-related death of active member. (1) 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 19-8-603.

(2) If a nonvested member dies before reaching normal retirement age, the member's designated beneficiary is entitled to a lump-sum refund of the accumulated contributions standing to the member's credit at the time of the member's death."

Section 23. Section 19-9-104, MCA, is amended to read:

"19-9-104. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:

- (1) (a) "Compensation" means the remuneration paid from funds controlled by an employer in payment for the member's services before any pretax deductions allowed by state or federal law are made.
- (b) Compensation does not include:
 - (i) overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave and annual leave;
 - (ii) per diems, maintenance, allowances, and expenses; or
 - (iii) bonuses provided after July 1, 2013, that are one-time, or temporary payments in addition to and not considered part of base pay.

- (2) "Dependent child" means a child of a deceased member:
- (a) who is unmarried and under 18 years of age; or
 - (b) who is 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.
- (3) "Employer" means any city that participated in a prior plan or that elects to join this retirement system under 19-9-207.
- (4) (a) "Final average compensation" means the monthly compensation of a member averaged over the last 36 months of the member's 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) Excess earnings limits must be applied to the calculation of the final average compensation pursuant to 19-2-1005(2).
- (5) "Minimum retirement date" means the first day of the month coinciding with or, if none coincides, the date on which a member both becomes age 50 and completes 5 years of membership service.
- (6) Any reference to "municipality", "city", or "town" includes those jurisdictions that, prior to the effective date of a county-municipal consolidation, were incorporated municipalities, subsequent districts created for urban law enforcement services, or the entire county included in the county-municipal consolidation.
- (7) "Police officer" means an appointed, lawfully trained, appropriately salaried, and regularly acting officer with the requisite professional certification and licensing.
- (8) "Prior plan" means the local police reserve or pension trust fund of a city that elects to join the retirement system under 19-9-207.
- (9) "Retirement date" means the date on which the first payment of the retirement, disability, or survivorship benefits of a member or a survivor is payable.
- (10) "Surviving spouse" means the spouse married to a member at the time of the member's death.
- (11) "Survivor" means a surviving spouse or dependent child of the member."

Section 24. Section 19-9-1101, MCA, is amended to read:

"19-9-1101. Preretirement death benefits. ~~(1) Upon~~ On the death of an active member, the member's surviving spouse or dependent child is eligible for benefits equal to one-half of the member's final

average compensation, payable as provided in 19-9-804(2). If the deceased member has completed over 20 years of membership service, the survivorship benefit must equal 2.5% of the member's final average compensation for each year of service credit.

(2) On the death of an inactive member, the member's surviving spouse or dependent child is eligible for a lump-sum refund of the accumulated contributions standing to the member's credit at the time of the member's death."

Section 25. 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) (a) "Compensation" means:

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

~~(i)~~(A) 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)~~(B) 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.

~~(e)~~(b) 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) per diems, maintenance, allowances, and expenses; or

(iii) bonuses provided after July 1, 2013, that are one-time, or 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 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 26. Section 19-13-902, MCA, is amended to read:

"19-13-902. Survivorship benefit. (1) A member's surviving spouse, if there is one, must receive a survivorship benefit amount as provided in this section. If a member leaves no surviving spouse or ~~upon~~ on the death of the surviving spouse, the member's surviving dependent children must collectively receive the same benefit that a surviving spouse would have received under this section. A child may receive a share of the benefit as long as the child is a dependent child, as defined in 19-13-104.

(2) (a) The survivorship benefit paid ~~upon~~ on the death of an active member who has completed less than 20 years of membership service is one-half the highest average compensation received by the member.

(b) The survivorship benefit paid on the death of an inactive member who has completed less than 20 years of membership service is a lump-sum refund of the accumulated contributions standing to the member's credit at the time of the member's death.

~~(b)(c)~~ (c) The survivorship benefit paid ~~upon~~ on the death of an active or inactive member who has completed over 20 years of membership service is the benefit amount to which the member was entitled on the

date of death.

(3) Benefits provided under this section are subject to the benefit adjustments provided pursuant to part 10 of this chapter."

Section 27. Coordination instruction. If both Senate Bill No. 316 and [this act] are passed and approved and if both contain a section that amends 19-2-406, then [section 3(5) of this act], amending 19-2-406(5), is void.

Section 28. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2025.

(2) [Section 12] is effective July 1, 2026.

- END -

I hereby certify that the within bill,
HB 62, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2025.

President of the Senate

Signed this _____ day
of _____, 2025.

HOUSE BILL NO. 62

INTRODUCED BY J. DARLING

BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

AN ACT GENERALLY REVISING LAWS RELATED TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEMS ADMINISTERED BY THE PUBLIC EMPLOYEES' RETIREMENT BOARD; PROVIDING FOR RETIREMENT FROM NONLEGISLATIVE EMPLOYMENT; REVISING THE POST-TERMINATION DEADLINE TO APPLY FOR DISABILITY RETIREMENT; PROVIDING THAT DUTY-RELATED DISABILITY RETIREMENT BENEFITS DO NOT CONVERT TO NORMAL RETIREMENT ON REACHING NORMAL RETIREMENT AGE; ASSESSING INTEREST ON PAYROLL REPORTING ERRORS THAT REQUIRE RETROACTIVE CONTRIBUTIONS; PRORATING SERVICE PURCHASES WHEN A MEMBER STOPS MAKING INSTALLMENT PAYMENTS; REMOVING THE PROVISION ALLOWING THE RENOUNCEMENT OF BENEFITS; CLARIFYING THAT DISABILITY RETIREMENT BENEFITS CANNOT BEGIN PRIOR TO THE COMPLETION OF AN APPLICATION; CLARIFYING THE APPLICATION OF EXCESS EARNINGS FOR CALCULATION OF HIGHEST AND FINAL AVERAGE COMPENSATION; REVISING REQUIRED MINIMUM DISTRIBUTION AND INHERITED ACCOUNT REQUIREMENTS TO COMPLY WITH FEDERAL LAW; DEFINING ALLOWANCE; REVISING THE DEFINITION OF COMPENSATION; EXEMPTING RETIRED MEMBERS UNDER SUBPOENA IN LEGAL PROCEEDINGS RELATED TO PRIOR EMPLOYMENT FROM WORKING RETIREE PROVISIONS; REVISING THE EXCLUSION OF BONUSES FROM COMPENSATION IN THE JUDGES' RETIREMENT SYSTEM, THE HIGHWAY PATROL OFFICERS' RETIREMENT SYSTEM, THE GAME WARDENS' AND PEACE OFFICERS' RETIREMENT SYSTEM, THE MUNICIPAL POLICE OFFICERS' RETIREMENT SYSTEM, AND THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM; ALIGNING WORKING RETIREE LIMITS IN THE SHERIFFS' RETIREMENT SYSTEM WITH SIMILAR PROVISIONS IN OTHER RETIREMENT SYSTEMS; CLARIFYING THAT TERMINATION OF SERVICE IS NECESSARY PRIOR TO RETIREMENT FROM THE GAME WARDENS' AND PEACE OFFICERS' RETIREMENT SYSTEM; CLARIFYING THE SURVIVORSHIP BENEFIT TO BENEFICIARIES OF INACTIVE MEMBERS OF THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM WITH LESS THAN 20 YEARS OF SERVICE; PROVIDING RULEMAKING AUTHORITY; AMENDING

SECTIONS 5-2-304, 19-2-303, 19-2-406, 19-2-506, 19-2-704, 19-2-801, 19-2-908, 19-2-1005, 19-2-1007, 19-3-108, 19-3-412, 19-3-505, 19-3-1103, 19-3-1106, 19-5-101, 19-5-802, 19-6-101, 19-7-101, 19-7-1101, 19-8-101, 19-8-601, 19-8-1003, 19-9-104, 19-9-1101, 19-13-104, AND 19-13-902, MCA; AND PROVIDING EFFECTIVE DATES.