

Montana Public Employee Retirement Administration
Table of General Revisions Legislation to be considered for 2013
New 3/21/2012
Amended 10/25/2012

Current Code Section	Proposed Change	Reason	Notes		Responsible Person
19-2-303(19) p.5	Expand definition of direct rollover to include rollovers in and out of plan.	Currently the definition addresses direct rollovers from our plans but not into our plans. We tried to fix by rule, but Legislative Services did not permit.		x	<i>Melanie</i>
19-2-403(4) p.16	Change “employees” in 1 st sentence to “members”	Accuracy		x	<i>Melanie</i>
19-2-403(4) p.16	Address situation where a member’s job includes work covered by 2 different systems	Becoming more common – employers are changing positions and including duties perhaps for budgetary reasons	Sheriffs/coroner SRS/PERS Police/Administration MPORS/PERS	x	<i>Patty/Kate</i>
19-2-403(5) p.16	Address contribution payments that are made to the incorrect system	Currently in 19-2-903(1) but that statute is in a Benefits part, not a contributions part.		x	<i>Kate</i>
19-2-405(7) p.21	Add language addressing cost of each employer’s actuarial study as required by GASB	GASB reporting requirements	Clarified with Cheiron 10/10/12.	x	<i>Barb/Melanie</i>
19-2-406(1) p.21	Move disability application process and 4 month limit from 19-3-1005	Applies to all systems		x	<i>Kate</i>
19-2-505(4) pp.24-25	Include deceased member’s, whether vested or not, accumulated contributions	Not addressed here or in 19-2-1003. 19-2-1003 is for nonvested and dead or alive	5 years is OK here because deceased	x	<i>Kate</i>

Current Code Section	Proposed Change	Reason	Notes		Responsible Person
19-2-706(6) pp.27-28	Reduce returned contributions by benefits related to the contributions rather than by the entire benefit	Fairness		x	<i>Patty</i>
19-2-801(2) p. 28	Reference section 40-4-121 as TROs issued under that statute now apply to retirement system beneficiary designations	Supreme Court decision in Briese		x	<i>Kate</i>
19-3-412(2) p.36	Change “calendar year” to “fiscal year”.	We base optional membership requirements on fiscal year	Original language came from a SAVA bill and appears to reflect working retiree limitations. Compare -412(1) (b) with -412(2) and fix as necessary	x	<i>Barb</i>
19-3-512(3) p.40	Military time exclusion is no longer necessary.	Military time can now be purchased after 5 years of membership service and service credit from other public retirement systems is membership service	Ref 19-3-503	x	<i>Patty</i>
19-3-908(7) p. 43	Reduce returned contributions by benefits related to the contributions rather than by the entire benefit	Fairness		x	<i>Patty</i>
19-3-1005 pp.43-44	Move to chapter 2, 19-2-406	Disability application process applies to all disabilities. Procedure and four month limit should also.		x	<i>Kate</i>

Current Code Section	Proposed Change	Reason	Notes		Responsible Person
19-3-1106 p.48	Insert a new (8) including returning to work as an IC	More retirees are asking to return as an IC; no reason to treat differently than temp workers	TRS has this requirement	x	<i>Melanie</i>
19-3-1210 pp.49-50	Clarify – application to options 1, 2 and 3	Options 2 and 3 must designate a contingent annuitant in order to apply for retirement benefit.	Option 4 addressed in 19-3-1501 Amended 19-3-1501 to define “option 1”	x	<i>Melanie</i>
19-3-1501 pp.50,57 19-5-701 pp.60,63 19-7-1001 pp.73,76 19-8-801 pp.80,83	Specifically state that once a retirement benefit has been deposited or cashed, the option cannot be changed expect upon death or divorce as provided in the statutes (pp.57,63,76,83) Clarify that (1) is known as Option 1 (pp.50,60,73,80)	People have asked to change their option. This is not feasible since based on actuarial determinations. We reference option 1 in communication/education material; ease of reference	Do we want a new statute in Title 19, Chapter 2 that states that receipt of a benefit or refund ends any ability to change? We already address refunds in 2.43.2607(5), and I’m not certain if we want to open the door to any other possible problems. Ties in with 19-3-1210, 19-5-802, 19-7-503, 19-8-1002	x	<i>Melanie</i>
19-3-2133 p.55	Travel costs for out-of-town members of EIAC	Since not subject to 2-15-122, nothing currently allows for travel costs to be reimbursed	Prefer to put in By-Laws, but if not, add here.	x	<i>Melanie</i>
19-5-802(3) p.65-67	Reference 19-5-502 rather than go through 19-5-503 then to -502 for determining beneficiary’s benefit.	Hard to decipher.		x	<i>Patty</i>
19-5-801 and 19-5-802 pp.65-67	Address “benefit” available if member dies unvested – non duty related and duty related?	Non-duty related, pre-vesting is not addressed. Not certain about duty related.	Marjorie mentioned in August – Melanie and Kate believe 19-5-801 applies whether vested or not. The service benefit would be calculated regardless.	?	<i>Melanie</i>

Current Code Section	Proposed Change	Reason	Notes		Responsible Person
19-5-802 p.65	Clarify – application to options 1, 2 and 3	Options 2 and 3 must designate a contingent annuitant in order to apply for retirement benefit.	Option 4 addressed in 19-5-701 Amended 19-5-701 to define “option 1”	?	<i>Melanie</i>
19-6-601 p.67-68	Add “Vested” member to (1)	We already require members to be vested in order to be eligible for non-duty disability.	Unless we added this to the duty related disability in part 2 - I think adding “vested” to part 1 would not impair a K right because it is current practice*	x	<i>Kate</i>
19-7-503 pp.68-69	Clarify – application to options 1, 2 and 3	Options 2 and 3 must designate a contingent annuitant in order to apply for retirement benefit.	Option 4 addressed in 19-7-1001 Amended 19-7-1001 to define “option 1”	x	<i>Melanie</i>
19-7-601	Clarify whether and when vesting is required		Was originally in disability bill	x	<i>Kate</i>
19-7-901 p.71	We base actuarially equivalent on age 60, not age 65	Consistency between sections (19-7-502 and 19-7-901) Overlooked in 1987.	Address in qualification bill too – NRA issue.	x	<i>Melanie</i>
19-8-1002	Clarify – application to options 1, 2 and 3	Options 2 and 3 must designate a contingent annuitant in order to apply for retirement benefit.	Option 4 addressed in 19-8-801 Amended 19-8-801 to define “option 1”	x	<i>Melanie</i>
19-8-302(2) and (3) p.77	Change 30 to 90 days for election period.	Consistency		x	<i>Barb</i>
19-9-104 p.86	Define “newly confirmed police officer” based on 7-32-4113	Consistency/accuracy		x	<i>Melanie</i>
19-9-710 p.87	Delete (1)(a) and renumber	No active members contribute 5.8%	Diann to Barb – remove from statute so can remove from CAFR	x	<i>Barb</i>
19-9-710(2) p.87	Add 19-9-1013	Overlooked when 19-9-1013 adopted; requires a 9% contribution rate	This is the amount we are collecting for these people.	x	<i>Melanie</i>
19-13-104 p.91	Define “newly confirmed firefighter” based on 7-33-4106 and AG opinion	Consistency/accuracy		x	<i>Melanie</i>

Current Code Section	Proposed Change	Reason	Notes		Responsible Person
19-13-104(9) (new(10)) p.91	Remove reference to 7-33-4109 and clarify	7-33-4109 doesn't address partpays.	Retain 2 nd class only	x	<i>Barb/Kate</i>
19-17-605 p.93	Delete earnings limitation	Not an earnings based retirement benefit	But do we want to keep this in? Did we discuss in 2011?	x	<i>Barb</i>

*** Bill No. ***

Introduced By *****

By Request of the (Agency or Department)

A Bill for an Act entitled: "An Act;

Be it enacted by the Legislature of the State of Montana:

Section 1. 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) "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) "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) "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) "Board" means the public employees' retirement board provided for in 2-15-1009.

(12) "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) "Covered employment" means employment in a covered position.

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

(15) "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) "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) "Department" means the department of administration.

(18) "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) "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) "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.

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

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

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

(31) "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.

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

(33) (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.

(34) "Normal retirement age" means the age at which a member is eligible to immediately receive a retirement benefit based on the member's age, length of service, or both, as specified under the member's retirement system, without disability and without an actuarial or similar reduction in the benefit.

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

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

(37) "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 and that is adjusted by the board pursuant to 19-3-2121 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.

(38) "Regular contributions" means contributions required from members under a retirement plan.

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

(40) "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.

(41) "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.

(42) "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 (10) (b).

(43) "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.

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

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

(46) "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.

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

(48) "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.

(49) "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.

(50) "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.

(51) "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.

(52) "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 (52), compensation does not mean compensation as a result of a legal action, court order, or settlement to which the board was not a party.

(53) "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.

(54) "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.

(55) "Vested member" or "vested" means:

(a) with respect to a defined benefit plan, a member or the status of a member who has at least 5 years of membership service; or

(b) 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.

(56) "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.

(57) "Written instrument" includes an electronic record containing an electronic signature, as defined in 30-18-102."
{*Internal References to 19-2-303: None* }

Section 2. Section 19-2-403, MCA, is amended to read:

"19-2-403. Powers and duties of board. (1) The board shall administer the provisions of the chapters enumerated in 19-2-302.

(2) The board may establish rules that it considers proper for the administration and operation of the retirement systems and enforcement of the chapters under which each retirement system is established.

(3) The board shall establish uniform rules that are necessary to determine service credit for fractional years of service.

(4) The board shall determine who are ~~employees~~ members within the meaning of each retirement system. The board is the sole authority for determining the conditions under which persons may become members of and receive benefits under the retirement systems. A person whose job duties require proportional membership in more than one retirement system to which this chapter applies is subject to the laws governing each of those systems.

(5) If fraud or error results in an employee or member being reported to the incorrect retirement system, the board shall correct the error and adjust contributions as necessary.

~~(5)~~ (6) The board shall determine and may modify retirement benefits under the retirement systems. Benefits may be paid only if the board decides, in its discretion, that the applicant is, under the provisions of the appropriate retirement system, entitled to the benefits.

~~(6)~~ (7) In matters of board discretion under the systems, the board shall treat all persons in similar circumstances in a uniform and nondiscriminatory manner.

~~(7)~~(8) The board shall maintain records and accounts it determines necessary for the administration of the retirement systems.

~~(8)~~(9) The board shall enter into memoranda of understanding with the teachers' retirement system to exchange retirement system-related confidential information regarding members, former members, or retirees. A memorandum must state that:

(a) the information may be used only for reasons related to verifying appropriate pension plan participation; and

(b) the requesting retirement system agrees to protect the confidentiality of the information and will disclose the requested information only as necessary to conduct official business.

~~(9)~~(10) Upon the basis of the findings of the actuary pursuant to 19-2-405, the board shall adopt actuarial rates and rates of regular interest it determines appropriate for the administration of the retirement systems.

~~(10)~~(11) The board shall review the sufficiency of benefits paid by the retirement system or plan and recommend to the legislature those changes in benefits in a defined benefit plan or in contributions under the defined contribution plan

that may be necessary for members and their beneficiaries to maintain a stable standard of living.

~~(11)~~(12) The board may implement third-party mailings under the provisions of 2-6-109. If third-party mailings are implemented, the board shall adopt rules governing means of implementation, including the specification of eligible third parties, appropriate materials, and applicable fees and procedures. Fees generated by third-party mailings must be deposited in the appropriate retirement system fund for the benefit of participants of retirement systems or plans administered by the board.

~~(12)~~(13) In discharging duties, the board, a member of the board, or an authorized representative of the board may 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. Subpoenas must be issued and enforced pursuant to 2-4-104 of the Montana Administrative Procedure Act.

~~(13)~~(14) The board may by rule or otherwise delegate to the board's executive director or any other staff member any of the powers or duties conferred by law upon the board except as

otherwise provided by law and except for the adoption of rules and the issuance of final orders after hearings held pursuant to subsection ~~(12)~~ (13) or the contested case procedure of the Montana Administrative Procedure Act.

~~(14)~~(15) The board shall perform other duties and may exercise the powers concerning the defined contribution plan for plan members as provided in chapter 3, part 21, of this title."

{Internal References to 19-2-403:

19-2-706x 19-2-715x 19-3-511x 19-3-908x
19-3-2104x }

Section 3. Section 19-2-405, MCA, is amended to read:

"19-2-405. Employment of actuary -- annual investigation and valuation. (1) The board shall retain a competent actuary who is an enrolled member of the American academy of actuaries and who is familiar with public systems of pensions. The actuary is the technical adviser of the board on matters regarding the operation of the retirement systems.

(2) The board shall require the actuary to make an annual actuarial investigation into the suitability of the actuarial tables used by the retirement systems and an actuarial valuation of the assets and liabilities of each defined benefit plan that is a part of the retirement systems.

(3) The normal cost contribution rate, which is funded by required employee contributions and a portion of the required employer contributions to each defined benefit retirement plan, must be calculated as the level percentage of members' salaries that will actuarially fund benefits payable under a retirement plan as those benefits accrue in the future.

(4) (a) The unfunded liability contribution rate, which is entirely funded by a portion of the required employer contributions to the retirement plan, must be calculated as the level percentage of current and future defined benefit plan members' salaries that will amortize the unfunded actuarial liabilities of the retirement plan over a reasonable period of time, not to exceed 30 years, as determined by the board.

(b) In determining the amortization period under subsection (4) (a) for the public employees' retirement system's defined benefit plan, the actuary shall take into account the plan choice rate contributions to be made to the defined benefit plan pursuant to 19-3-2117 and 19-21-203.

(5) The board shall require the actuary to conduct a periodic actuarial investigation into the actuarial experience of the retirement systems and plans. Copies of the report must be provided to the legislature pursuant to 5-11-210.

(6) The board may require the actuary to conduct any valuation necessary to administer the retirement systems and the plans subject to this chapter.

(7) The board shall require the actuary to determine individual employer disclosures pursuant to the requirements of this title and the Governmental Accounting Standards Board (GASB). The board will pass the actuary's cost of preparing the data and disclosures on to each employer based on their respective cost. The board may establish rules it considers proper for determination and payment of the respective costs."

{Internal References to 19-2-405:

5-11-210x 19-2-303x 19-2-403x 19-2-408x
19-3-2121x }

Section 4. Section 19-2-406, MCA, is amended to read:

"19-2-406. Disability Applications - Determination of disability by board -- compliance with federal law -- conversion to service retirement benefit -- rules. (1) An application may be filed on a member's behalf by the head of the office or department in which the member is or was last employed, by any other person on behalf of the member, or by the board upon its own motion. Applications for disability retirement must be filed within 4 months after the member's termination from employment unless the member is disabled continuously from the date of

termination from employment to the date the application is filed.

(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.

~~(2)~~(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.

~~(3)~~(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.

~~(4)~~(5) The disability retirement benefit paid to a member of the defined benefit plan must be converted to a service retirement benefit, without recalculation of the monthly benefit amount, when the member has attained normal retirement age. The board shall notify the member in writing as to the change in status."

{*Internal References to 19-2-406:*
19-2-907a 19-3-2141x }

Section 5. Section 19-2-505, MCA, is amended to read:

"19-2-505. Restrictions on use of funds. (1) Except as provided in this section, a member or an employee of the board or the board of investments may not:

(a) have any interest, direct or indirect, in the making of any investment or in the gains or profits accruing from the pension trust funds;

(b) directly or indirectly, for the member or employee or as an agent or partner of others, borrow from the pension trust funds or deposits;

(c) in any manner use the pension trust funds except to make current and necessary payments that are authorized by the board;

(d) become an endorser or surety as to or in any manner an obligor for investments for the pension trust funds; or

(e) engage in a transaction prohibited by section 503(b) of the Internal Revenue Code.

(2) The assets of the retirement systems, including the assets of retirement accounts, may not be used for or diverted to any purpose other than for the exclusive benefit of the members and their beneficiaries and for paying the reasonable administrative expenses of the retirement systems administered by the board.

(3) The assets of the retirement systems remain in trust until a warrant has been negotiated or an electronic funds transfer has been deposited in accordance with law.

(4) Retirement benefits not claimed within 5 years after the member's death are forfeited and revert to the retirement system trust fund.

(5) Accumulated contributions of any vested or non-vested member that are not claimed within 5 years after the member's

death are forfeited and revert to the retirement system trust fund.

(6) This section does not prevent the administration of an investment alternative within the defined contribution plan to the same extent that all other investment alternatives within the defined contribution plan are managed."

{*Internal References to 19-2-505: None* }

Section 6. Section 19-2-706, MCA, is amended to read:

"19-2-706. Additional service credit for active member involuntarily terminated from employment. (1) The provisions of subsection (3) apply to an employee of the state or university system if:

(a) the employee is an active member of the public employees' defined benefit plan or the game wardens' and peace officers', sheriffs', firefighters' unified, or highway patrol officers' retirement system;

(b) the employee has involuntarily terminated from employment because of elimination of the employee's position as a result of privatization, reorganization of an agency, closure of or a reduction in force at an agency, or other actions by the legislature or, in the case of a member who is a legislator, the

legislator is terminated from office in either one of the houses of the legislature because of term limits;

(c) the employee is eligible for service retirement or early retirement under the applicable provisions of the retirement system to which the member belongs; and

(d) the employee waives the rights and benefits for which the employee would otherwise be eligible under the State Employee Protection Act.

(2) The cost of each year of service credit purchased under this section is the total actuarial cost of purchasing the service credit based on the most recent actuarial valuation of the retirement system.

(3) The employer of an eligible member under subsection (1) shall pay a portion of the total cost of purchasing up to 3 years of additional service credit that the member was qualified to purchase under 19-3-513, 19-6-804, 19-7-804, 19-8-904, or 19-13-405. The employer-paid portion must be calculated using the formula $A \times B \times C$ when:

(a) A is equal to a maximum of 3 additional years of service credit that the member is eligible to purchase;

(b) B is equal to the sum of the employer and employee contribution rates in the member's retirement system; and

(c) C is equal to the member's gross compensation paid during the immediate preceding 12 months of membership service. The employer may not be charged more than the total actuarial cost of the service credit purchased.

(4) The member shall pay the difference, if any, between the full actuarial cost of the service credit to be purchased and the contribution required from the employer under subsection (3). The member may elect to purchase less than the full amount of service for which the member is eligible under this section, but the election may not reduce the amount of the employer's contribution as calculated under subsection (3).

(5) The board may allow an employer to pay the contributions required under subsection (3) in installments for up to 10 years and may charge interest at a rate set by the board pursuant to 19-2-403.

(6) (a) A member who has received additional service credit under this section and who returns to employment for the same jurisdiction for 960 or more hours in a calendar year in any retirement system forfeits the additional service credit. The employer's contribution to purchase that member's additional service credit, minus ~~any~~ the proportionate amount of retirement

benefits related to the additional service purchased and already paid, must be credited to the employer.

(b) As used in subsection (6) (a), the term "same jurisdiction" means all agencies of the state, including the university system."

{*Internal References to 19-2-706:*
17-7-304x }

Section 7. 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 card or other form provided by the board.

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

(3) If a person returns to covered employment in the same retirement system pursuant to 19-2-603, the board shall

reference the membership card executed by the person prior to initial termination of membership for the same purposes as prior to termination. Beneficiaries nominated on that membership card continue until changed as provided in subsection (2) of this section.

(4) (a) Except as provided in subsections (4) (b) and (4) (c), the beneficiary designation on the most recent membership card 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 card 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."

{*Internal References to 19-2-801:*
19-2-603x - rf deleted 2011 }

Section 8. 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(4)~~ 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.

(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."

{*Internal References to 19-2-907:*

19-2-303x	19-2-602x	19-2-1004x	19-3-1501x
19-3-2111x	19-3-2112x	19-5-701x	19-7-1001x
19-8-801x	19-9-1208x		

Section 9. Section 19-3-412, MCA, is amended to read:

"19-3-412. Optional membership. (1) Except as provided in 5-2-304 and subsection (2) of this section, the following employees and elected officials in covered positions 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) elected officials of the state or local governments, including individuals appointed to fill the unexpired term of elected officials, who:

(i) are paid on a salary or wage basis rather than on a per diem or other reimbursement basis; or

(ii) were members receiving retirement benefits under the defined benefit plan or a distribution under the defined contribution plan at the time of their election;

(b) 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;

(c) employees directly appointed by the governor;

(d) employees working 10 months or less for the legislative branch to perform work related to the legislative session;

(e) the chief administrative officer of any city or county;

(f) employees of county hospitals or rest homes.

(2) A member who is elected to a local government position in which the member works less than 960 hours in a ~~calendar~~ fiscal year may, within 90 days of taking office, decline optional membership with respect to the member's elected position.

(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 or elected official 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:

(i) for an employee described in subsection (1)(d), within 90 days of the commencement of the employee's employment; and

(ii) for an employee or elected official described in subsection (1) (a), (1) (b), (1) (c), (1) (e), or (1) (f), within 90 days of the commencement of the employee's or elected official's employment.

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

(4) If the employee or elected official fails to file the written application required under subsection (1) with the board within the time allowed in subsection (3), the employee or elected official waives membership.

(5) An employee or elected official who declines optional membership may not receive membership service or service credit for the employment for which membership was declined.

(6) An employee or elected official 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) Except as provided in subsection (2), membership in the retirement system is not optional for an employee or elected

official who is already a member. Upon employment in a position for which membership is optional:

(a) a member who was an active member before the employment remains an active member;

(b) a member who was an inactive member before the employment becomes an active member; and

(c) a member who was a retired member before the employment is subject to part 11 of this chapter.

(8) (a) An employee who declines membership for a position for which membership is optional may not later become a member while still employed with the same employer but in a different optional membership position.

(b) An elected official who declines membership for a position for which membership is optional may not later become a member if reelected to the same optional membership position.

(c) If, after termination from employment for 30 days or more, an employee who was employed in an optional membership position is reemployed in the same position or is employed in a different position for which membership is optional, the employee shall again choose or decline membership.

(d) If the termination from employment is less than 30 days, an employee who declined membership is bound by the employee's original decision to decline membership.

(9) An employee accepting a position that requires membership must become a member even if the employee previously declined membership and did not have a 30-day break in service."

{Internal References to 19-3-412:

5-2-304x 5-2-304x 19-3-411x 19-3-1106x
19-20-302x}

Section 10. Section 19-3-512, MCA, is amended to read:

"19-3-512. Purchase of service credit from other public retirement systems. (1) Subject to 19-3-514, a member with at least 5 years of membership service in the public employees' retirement system may purchase service credit for:

(a) public service employment covered under a public retirement system other than a system provided for in Title 19 for which the member received a refund of the member's membership contribution; and

(b) public service employment that occurred before the public employer adopted a public retirement system.

(2) A member may not purchase more than 5 years of service credit under this section. To purchase this service credit, a member shall:

(a) at any time before retirement, file a written application with the board; and

(b) pay the actuarial cost of the service credit in the public employees' retirement system, as determined by the board, based on the system's most recent actuarial valuation.

~~(3) Service credit purchased under this section may not be used to qualify a member to purchase military service under 19-3-503.~~

~~(4)~~ Service credit purchased under this section may not be used in calculating a member's retirement benefit unless the member's last 5 years of service credit were earned under the public employees' retirement system. If, upon the member's retirement, the member's purchased service credit cannot be used in calculating the member's retirement benefit, the member must receive a refund of the amount paid to purchase the service credit, plus regular interest on that amount."

{*Internal References to 19-3-512:*
19-3-514x 19-3-514x }

Section 11. Section 19-3-908, MCA, is amended to read:

"19-3-908. Retirement incentive program -- window of eligibility. (1) Except as provided in subsection (4), a person who is an active member on February 1, 1993, and who voluntarily terminates service or who is involuntarily terminated from service because of a reduction in force on or after June 25, 1993, but before January 1, 1994, and who is eligible for a normal service retirement under 19-3-901 or early retirement under 19-3-902 is entitled to the retirement incentive provided in subsection (2).

(2) (a) The employer of an eligible member under subsection (1) shall pay the total cost of purchasing up to 3 years of additional service credit that the member is qualified to purchase under 19-3-513.

(b) The department of revenue shall pay the cost of purchasing up to 3 years of additional service credit for qualifying county assessors and deputy assessors eligible under subsection (1) whose employing county has not elected for participation in the incentive program as provided in subsection (4).

(c) A member is entitled to a refund for that portion of previously purchased additional service that would otherwise

cause the member to be unqualified to receive all or part of the additional service credit provided in this section.

(3) An active member who is involuntarily terminated from service because of a reduction in force on or after March 1, 1993, but before June 25, 1993, and who, if the member had not been terminated from service, would have been eligible under subsection (1) for the retirement incentive is entitled to the retirement incentive under subsection (2) if the member was, at the time of termination from service, eligible for service retirement under 19-3-901 or early retirement under 19-3-902 and retires on or after June 25, 1993.

(4) Subject to subsection (2)(b), a contracting employer's participation in the incentive program described in this section is optional. A contracting employer may elect to provide the incentive by filing with the board a written notice of election on or before June 1, 1993, and complying with rules adopted pursuant to subsection (6).

(5) County assessors and deputy assessors are eligible for the incentive program even if the employing county has not elected to participate in the incentive program.

(6) The board may allow an employer to pay the contributions required under subsection (2)(a) in installments

for up to 10 years and may charge interest at a rate set by the board pursuant to 19-2-403. The board shall adopt rules to implement the provisions of this section.

(7) A member who has received additional service under this section and who returns to employment for the same jurisdiction for 960 or more hours in a calendar year in a position covered by the public employees' retirement system or for 600 or more hours in a calendar year in a position covered under any other retirement system shall forfeit the additional service. The employer's contributions to purchase that member's additional service credit, minus ~~any~~ the proportionate amount of retirement benefits related to the additional service purchased and already paid, must be refunded to the employer. For purposes of this subsection, all agencies of the state, including the university system, are considered the same jurisdiction and other public employers contracting with the retirement system are each considered separate jurisdictions."

{*Internal References to 19-3-908: None* }

"19-3-1005. Application for disability retirement benefit.

The board shall grant a disability retirement benefit to any active or inactive member who has fulfilled the eligibility requirements of 19-3-1002 and filed the appropriate written

~~application with the board. An application may be filed on a member's behalf by the head of the office or department in which the member is or was last employed, by any other person on behalf of the member, or by the board upon its own motion. The application must be filed within 4 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."~~

{Internal References to 19-3-1005:
19-3-2141a }

Section 12. 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 engages in a gainful occupation ~~during any month~~ other than in a position covered by the retirement system, the recipient must submit an annual earnings statement and any documentation necessary to support those earnings for each month ~~each year~~ that the recipient is engaged in that a gainful occupation and receiving a disability retirement benefit.

(b) The amount of the recipient's retirement benefit for that any each month of gainful occupation must be reduced 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 compensation at the time of the recipient's retirement.

~~(b)~~(c) The board shall annually adjust the recipient's monthly compensation as it was at the time of retirement by an inflationary factor if the recipient has been receiving a disability retirement benefit for more than 36 consecutive months.

(d) If the recipient fails to submit the information required by subsection (1), disability benefits may be suspended until the required information is submitted.

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

{*Internal References to 19-3-1103: None* }

Section 13. 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) A retiree returning to employment covered by the retirement system may elect to return to active membership at any time during this period of covered employment.

(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) or 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 19-3-412.

(6) Except as provided in subsection (5), 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) For the purposes of this section, "employment covered by the retirement system" includes:

(a) 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) services performed by a retiree as an independent contractor for a PERS-covered employer."

{Internal References to 19-3-1106: None }

Section 14. Section 19-3-1210, MCA, is amended to read:

"19-3-1210. Death payments to designated beneficiaries of retired members. (1) When a retired member who elected an option 1 retirement benefit under 19-3-1501 dies, 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.

(2) If a retired member who elected an option 2 or option 3 benefit under 19-3-1501 dies without designating a contingent annuitant under 19-3-1501, the member's designated beneficiary or, if there is no surviving designated beneficiary dies with no surviving contingent annuitant, 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.

(3) Disability benefits are not paid from the member's account, and therefore are not subject to subsection (1) or subsection (2)"

{Internal References to 19-3-1210: None }

Section 15. Section 19-3-1501, MCA, is amended to read:

"19-3-1501. Optional forms of benefits -- designation of contingent annuitant. (1) The retirement benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted, in lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of the original benefit. If the member does not elect an optional retirement benefit pursuant to subsection (2), the member's retirement benefit is known as an option 1 benefit.

(2) An optional retirement benefit is initially payable during the member's or designated beneficiary's lifetime, with a subsequent benefit, depending on the option selected, to a contingent annuitant as follows:

(a) option 2--a continuation of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant. This option may

be the chosen benefit only if the adjusted age difference between the member or designated beneficiary and the contingent annuitant, other than the member's or designated beneficiary's spouse, is 10 years or less. The adjusted age difference is either:

(i) the excess of the age of the member or designated beneficiary over the age of the nonspouse contingent annuitant based on their ages on their birthdays in a calendar year; or

(ii) if the member or designated beneficiary is under 70 years of age, the age difference determined in subsection ~~(1)(a)(i)~~ (2)(a)(i) reduced by the number of years that the member or designated beneficiary is under 70 years of age on the member's or beneficiary's birthday in the calendar year that contains the benefit starting date.

(b) option 3--a continuation of one-half of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(c) option 4--a continuation of the optional retirement benefit to one or more contingent annuitants in the event of the initial payee's death before the end of a period certain, determined as follows:

(i) the period certain commences at the time that the initial payee first begins receiving the retirement benefit and is available as either:

(A) a 10-year period certain if the member retired at 75 years of age or younger; or

(B) a 20-year period certain if the member retired at 65 years of age or younger;

(ii) if there is more than one surviving contingent annuitant, each contingent annuitant must receive a proportion of the initial payee's benefit on a share-and-share-alike basis;

(iii) if all surviving contingent annuitants die prior to the end of the period certain and the last remaining contingent annuitant has failed to name a designated beneficiary, the remaining payments must be converted to an equivalent lump-sum amount and paid to the estate of the last surviving contingent annuitant.

~~(2)~~(3) The member or the designated beneficiary who elects an optional retirement benefit shall file a written application with the board prior to the first payment of the benefit. A contingent annuitant must be identified on the application.

~~(3)~~(4) If the member or designated beneficiary or the named contingent annuitant dies before the first payment has

been made under option 2 or 3, the election of the option is automatically canceled.

~~(4)~~(5) If the member dies after retirement and within 30 days from the date that the member's written application electing or changing an election of an optional retirement benefit is received by the board, then the election is void.

(6) Once the member's initial retirement benefit has been received and accepted, the member cannot change the selected option except as provided in subsection (7).

~~(5)~~(7) A retired member receiving an optional retirement benefit pursuant to subsection ~~(1)(a)~~ (2)(a) or ~~(1)(b)~~ (2)(b) may file a written application with the board to have the member's optional retirement benefit revert to the regular retirement benefit available at the time of the member's retirement if:

(a) the original contingent annuitant has died, in which case the optional benefit must revert effective on the first day of the month following the contingent annuitant's death; or

(b) the member's marriage to the original contingent annuitant has been dissolved and the original contingent annuitant has not been granted the right to receive the optional retirement benefit as part of a family law order, as defined in

19-2-907. The benefit must then revert effective on the first day of the month following receipt of the written application and verification that the family law order does not grant the optional benefit to the original contingent annuitant.

~~(6)~~(8) A member who applies to revert under subsection ~~(5)~~(7) shall, at the time of the application, choose one of the following alternatives:

(a) revert to the member's original retirement benefit, increased by the amount of any adjustments received by the member since the effective date of the member's retirement;

(b) retain the same option 2 or option 3 originally selected but name a new contingent annuitant; or

(c) select a different option and name a new contingent annuitant.

~~(7)~~(9) If the member selects an alternative under subsection ~~(6)~~(b) ~~(8)~~(b) or ~~(6)~~(c) ~~(8)~~(c), the member's retirement benefit must be calculated based on the member's and the new contingent annuitant's ages at the time of this election.

~~(8)~~(10) A written application pursuant to subsection ~~(5)~~(7) must be filed with the board within 18 months of the death of or dissolution of marriage to the contingent annuitant."

{Internal References to 19-3-1501:
19-2-303x 19-2-303x 19-3-1210x }

Section 16. Section 19-3-2133, MCA, is amended to read:

"19-3-2133. Employee investment advisory council. (1) The board shall create an employee investment advisory council. The advisory council shall meet at least four times a year to:

(a) advise the board concerning the operation of the defined contribution plan, including the selection of the initial investment alternatives to be provided pursuant to 19-3-2122;

(b) advise the board about negotiating, contracting, or modifying services for the state deferred compensation plan provided for in chapter 50; and

(c) review existing deferred compensation plans and to advise the board on the administration of the program.

(2) The advisory council is not subject to 2-15-122, except with respect to the payment of travel expenses."

{Internal References to 19-3-2133: None }

Section 17. 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 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 and 19-3-1005.

(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.

(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."

{Internal References to 19-3-2141:

19-2-303x 19-3-2117x 19-3-2142x 19-3-2143x
19-3-2143x 19-3-2143x }

Section 18. Section 19-5-601, MCA, is amended to read:

"19-5-601. Disability retirement benefit. (1) Except as provided in subsections (2) and (3), in the case of the disability of a member, a disability retirement benefit must be granted ~~the~~ to a vested member in an amount actuarially equivalent to the service retirement benefit standing to the member's credit at the time of the member's disability retirement.

(2) If the disability is a direct result of any service or duty for the Montana judiciary, the vested or non-vested member's disability retirement benefit must be the greater of one-half of the member's current salary or one-half of the member's highest average compensation.

(3) If the member was retired at the time of becoming disabled, the member must continue to receive the same retirement benefit previously elected."

{Internal References to 19-5-601: None }

Section 19. Section 19-5-701, MCA, is amended to read:

"19-5-701. Optional forms of benefits -- designation of contingent annuitant. (1) The retirement benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted, in lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of the original benefit. If the member does not elect an optional retirement benefit pursuant to subsection (2), the member's retirement benefit is known as an option 1 benefit.

(2) An optional retirement benefit is initially payable during the member's or designated beneficiary's lifetime, with a subsequent benefit, depending on the option selected, to a contingent annuitant as follows:

(a) option 2--a continuation of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant. This option may

be the chosen benefit only if the adjusted age difference between the member or designated beneficiary and the contingent annuitant, other than the member's or designated beneficiary's spouse, is 10 years or less. The adjusted age difference is either:

(i) the excess of the age of the member or designated beneficiary over the age of the nonspouse contingent annuitant based on their ages on their birthdays in a calendar year; or

(ii) if the member or designated beneficiary is under 70 years of age, the age difference determined in subsection ~~(1)(a)(i)~~ (2)(a)(i) reduced by the number of years that the member or designated beneficiary is under 70 years of age on the member's or beneficiary's birthday in the calendar year that contains the benefit starting date.

(b) option 3--a continuation of one-half of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(c) option 4--a continuation of the optional retirement benefit to one or more contingent annuitants in the event of the initial payee's death before the end of a period certain, determined as follows:

(i) the period certain commences at the time that the initial payee first begins receiving the retirement benefit and is available as either:

(A) a 10-year period certain if the member retired at 75 years of age or younger; or

(B) a 20-year period certain if the member retired at 65 years of age or younger;

(ii) if there is more than one surviving contingent annuitant, each contingent annuitant must receive a proportion of the initial payee's benefit on a share-and-share-alike basis;

(iii) if all surviving contingent annuitants die prior to the end of the period certain and the last remaining contingent annuitant has failed to name a designated beneficiary, the remaining payments must be converted to an equivalent lump-sum amount and paid to the estate of the last surviving contingent annuitant.

~~(2)~~(3) The member or designated beneficiary who elects an optional retirement benefit shall file a written application with the board prior to the first payment of the benefit. A contingent annuitant must be identified on the application.

~~(3)~~(4) If the member or designated beneficiary or the named contingent annuitant dies before the first payment has

been made under option 2 or 3, the election of the option is automatically canceled.

~~(4)~~(5) If the member dies after retirement and within 30 days from the date that the member's written application electing or changing an election of an optional retirement benefit is received by the board, the election is void.

(6) Once the member's initial retirement benefit has been received and accepted, the member cannot change the selected option except as provided in subsection (7).

~~(5)~~(7) A retired member receiving an optional retirement benefit pursuant to subsection ~~(1)(a)~~ (2)(a) or ~~(1)(b)~~ (2)(b) may file a written application with the board to have the member's optional retirement benefit revert to the regular retirement benefit available at the time of the member's retirement if:

(a) the original contingent annuitant has died, in which case the optional benefit must revert effective on the first day of the month following the contingent annuitant's death; or

(b) the member's marriage to the original contingent annuitant has been dissolved and the original contingent annuitant has not been granted the right to receive the optional retirement benefit as part of a family law order, as defined in

19-2-907. The benefit must then revert effective on the first day of the month following receipt of the written application and verification that the family law order does not grant the optional benefit to the original contingent annuitant.

~~(6)~~(8) A member who applies to revert under subsection ~~(5)~~(7) shall, at the time of the application, choose one of the following alternatives:

(a) revert to the member's original retirement benefit, increased by the amount of any adjustments received by the member since the effective date of the member's retirement;

(b) retain the same option 2 or option 3 originally selected but name a new contingent annuitant; or

(c) select a different option and name a new contingent annuitant.

~~(7)~~(9) If the member selects an alternative under subsection ~~(6)~~~~(b)~~ (8) ~~(b)~~ or ~~(6)~~~~(c)~~ (8) ~~(c)~~, the member's retirement benefit must be calculated based on the member's and the new contingent annuitant's ages at the time of this election.

~~(8)~~(10) A written application pursuant to subsection ~~(5)~~(7) must be filed with the board within 18 months of the death of or dissolution of marriage to the contingent annuitant."

{Internal References to 19-5-701:
19-5-801x 19-5-802a 19-5-802a }

Section 20. Section 19-5-801, MCA, is amended to read:

"19-5-801. Payments upon employment-related death. (1)

Except as provided in subsection (3), if the board finds that a vested or non-vested member died as a direct and proximate result of injury received in the course of the member's service or duty, a survivorship benefit must be paid to the member's designated beneficiary.

(2) The survivorship benefit referenced in subsection (1) is the member's service retirement benefit standing to the member's credit on the date of death.

(3) If the member was retired at the time of death, the provisions of 19-5-701 and 19-5-802(2) through (4) apply."

{Internal References to 19-5-801: None }

Section 21. Section 19-5-802, MCA, is amended to read:

"19-5-802. Payments in case of death from other causes than employment-related death.

(1) If a vested member dies before reaching normal retirement age from other than an employment-related death provided for in 19-5-801, 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. If

(2) When a retired member not covered under 19-5-901 who elected an option 1 retirement benefit under 19-5-701 dies ~~without designating a contingent annuitant under 19-5-701(2),~~ 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.

~~(2) If~~ (3) When a retired member covered under 19-5-901 who elected an option 1 retirement benefit under 19-5-701 dies ~~without designating a contingent annuitant under 19-5-701(2),~~ 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.

~~(3) If a vested member dies before reaching normal retirement age from other than an employment-related death provided for in 19-5-801, the member's designated beneficiary is~~

~~entitled to a monthly survivorship benefit that is the actuarial equivalent of the involuntary retirement benefit provided in 19-5-503."~~

(4) If a retired member who elected an option 2 or option 3 benefit under 19-5-701 dies with no surviving contingent annuitant, 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) Disability benefits are not paid from the member's account, and therefore are not subject to subsection (2), subsection (3), or subsection (4).

{*Internal References to 19-5-802: None* }

Section 22. Section 19-6-601, MCA, is amended to read:

"19-6-601. Disability retirement benefit. (1) ~~A~~ Except as provided in subsections (2) and (3), a vested member who becomes disabled must be granted a disability retirement benefit that is the actuarial equivalent of the service retirement benefit under 19-6-502 standing to the member's credit at the time of the member's disability retirement.

(2) A vested or non-vested member who becomes disabled as a direct result of the member's service in the line of duty:

(a) before completing 20 years of membership service must receive a disability retirement benefit equal to one-half the member's highest average compensation; or

(b) after completing 20 years or more of membership service must receive a disability retirement benefit equal to 2.5% of the member's highest average compensation for each year of service credit.

(3) Upon the death of a member receiving a disability retirement benefit under this section, the member's surviving spouse or dependent child is eligible for benefits as provided in 19-6-505."

{Internal References to 19-6-601:
19-6-709x 19-6-903x }

Section 23. Section 19-7-503, MCA, is amended to read:

"19-7-503. Service retirement benefit. (1) The amount of any service retirement benefit granted to a member is 2.5% of the member's highest average compensation for each year of service credit.

(2) When a retired member who elected an option 1 retirement benefit under 19-7-1001 dies, 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.

(3) If a retired member ~~dies without designating a contingent annuitant under 19-7-1001~~ who elected an option 2 or option 3 benefit under 19-7-1001 dies with no surviving contingent annuitant, the member's designated beneficiary 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.

(4) Disability benefits are not paid from the member's account, and therefore are not subject to subsection (2) or subsection (3)"

{*Internal References to 19-7-503:*
19-7-601x }

Section 24. Section 19-7-601, MCA, is amended to read:

"19-7-601. Disability retirement benefit. (1) ~~A~~ Except as provided in subsection (2), a vested member who becomes disabled must be granted a disability retirement benefit that is the actuarial equivalent of the service retirement benefit under

19-7-503 standing to the member's credit at the time of the member's disability retirement.

(2) A vested or non-vested member who becomes disabled as a direct result of the member's service in the line of duty:

(a) before completing 20 years of membership service must receive a disability retirement benefit equal to one-half the member's highest average compensation; or

(b) after completing 20 years or more of membership service must receive a disability retirement benefit equal to 2.5% of the member's highest average compensation for each year of service credit."

{*Internal References to 19-7-601: None* }

Section 25. Section 19-7-901, MCA, is amended to read:

"19-7-901. Payments in case of death before retirement. If a member dies before retirement, the member's designated beneficiary may elect one of the following options for which the member qualified and for which the designated beneficiary qualifies:

(1) a lump-sum payment of the accumulated contributions standing to the member's credit at the member's death;

(2) a survivorship benefit equal to 2.5% of the member's highest average compensation for each year of service credit actuarially reduced from age ~~65~~ 60 or the date on which the member would have completed 20 years of membership service, whichever provides a larger retirement benefit; or

(3) a survivorship benefit that is no less than one-half of the member's highest average compensation if the board finds that the member died as a direct and proximate result of injuries received in the course of employment."

{*Internal References to 19-7-901: None* }

Section 26. Section 19-7-1001, MCA, is amended to read:

"19-7-1001. Optional forms of benefits -- designation of contingent annuitant. (1) The retirement benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted, in lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of the original benefit. If the member does not elect an optional retirement benefit pursuant to subsection (2), the member's retirement benefit is known as an option 1 benefit.

(2) An optional retirement benefit is initially payable during the member's or designated beneficiary's lifetime with a

subsequent benefit, depending on the option selected, to a contingent annuitant, as follows:

(a) option 2--a continuation of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant. This option may be the chosen benefit only if the adjusted age difference between the member or designated beneficiary and the contingent annuitant, other than the member's or designated beneficiary's spouse, is 10 years or less. The adjusted age difference is either:

(i) the excess of the age of the member or designated beneficiary over the age of the nonspouse contingent annuitant based on their ages on their birthdays in a calendar year; or

(ii) if the member or designated beneficiary is under 70 years of age, the age difference determined in subsection ~~(1)(a)(i)~~ (2)(a)(i) reduced by the number of years that the member or designated beneficiary is under 70 years of age on the member's or beneficiary's birthday in the calendar year that contains the benefit starting date.

(b) option 3--a continuation of one-half of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(c) option 4--a continuation of the optional retirement benefit to one or more contingent annuitants in the event of the initial payee's death before the end of a period certain, determined as follows:

(i) the period certain commences at the time that the initial payee first begins receiving the retirement benefit and is available as either:

(A) a 10-year period certain if the member retired at 75 years of age or younger; or

(B) a 20-year period certain if the member retired at 65 years of age or younger;

(ii) if there is more than one surviving contingent annuitant, each contingent annuitant must receive a proportion of the initial payee's benefit on a share-and-share-alike basis;

(iii) if all surviving contingent annuitants die prior to the end of the period certain and the last remaining contingent annuitant has failed to name a designated beneficiary, the remaining payments must be converted to an equivalent lump-sum amount and paid to the estate of the last surviving contingent annuitant.

~~(2)~~(3) The member or the designated beneficiary who elects an optional retirement benefit shall file a written application

with the board prior to the first payment of the benefit. A contingent annuitant must be identified on the application.

~~(3)~~(4) If the member or designated beneficiary or the named contingent annuitant dies before the first payment has been made under option 2 or 3, the election of the option is automatically canceled.

~~(4)~~(5) If the member dies after retirement and within 30 days from the date that the member's written application electing or changing an election of an optional retirement benefit is received by the board, the election is void.

(6) Once the member's initial retirement benefit has been received and accepted, the member cannot change the selected option except as provided in subsection (7).

~~(5)~~(7) A retired member receiving an optional retirement benefit pursuant to subsection ~~(1)(a)~~ (2)(a) or ~~(1)(b)~~ (2)(b) may file a written application with the board to have the member's optional retirement benefit revert to the regular retirement benefit available at the time of the member's retirement if:

(a) the original contingent annuitant has died, in which case the optional benefit must revert effective on the first day of the month following the contingent annuitant's death; or

(b) the member's marriage to the original contingent annuitant has been dissolved and the original contingent annuitant has not been granted the right to receive the optional retirement benefit as part of a family law order, as defined in 19-2-907. The benefit must revert effective on the first day of the month following receipt of the written application and verification that the family law order does not grant the optional benefit to the contingent annuitant.

~~(6)~~(8) A member who applies to revert under subsection ~~(5)~~ (7) shall, at the time of the application, choose one of the following alternatives:

(a) revert to the member's original retirement benefit, increased by the amount of any adjustments received by the member since the effective date of the member's retirement;

(b) retain the same option 2 or option 3 originally selected but name a new contingent annuitant; or

(c) select a different option and name a new contingent annuitant.

~~(7)~~(9) If the member selects an alternative under subsection ~~(6)~~ ~~(b)~~ (8) (b) or ~~(6)~~ ~~(c)~~ (8) (c), the member's retirement benefit must be calculated based on the member's and the new contingent annuitant's ages at the time of the election.

~~(8)~~(10) A written application pursuant to subsection ~~(5)~~
(7) must be filed with the board within 18 months of the death
of or dissolution of marriage to the contingent annuitant."

{Internal References to 19-7-1001:

19-7-503 19-7-801x 19-7-801x }

Section 27. Section 19-8-302, MCA, is amended to read:

**"19-8-302. Public employees' retirement system -- transfer
of membership.** (1) Except as provided in subsection (3), an
eligible peace officer must become a member of the game wardens'
and peace officers' retirement system on the first day of
service.

(2) A person who is a member of the game wardens' and
peace officers' retirement system assigned to law enforcement
who transfers to a position involving duties other than law
enforcement within the same state agency may retain membership
in the game wardens' and peace officers' retirement system by
filing a written election with the board no later than ~~30~~ 90
days after transfer to the new position.

(3) A person who is a member of the public employees'
retirement system who transfers to a position covered by the
game wardens' and peace officers' retirement system may elect to
become a member of the retirement system or may continue

membership in the public employees' retirement system by filing a written election with the board no later than ~~30~~ 90 days after transfer to the new position."

{*Internal References to 19-8-302:*
19-8-301x 19-8-308x }

Section 28. Section 19-8-701, MCA, is amended to read:

"19-8-701. Disability retirement benefit. (1) A vested member who becomes disabled must be granted a disability retirement benefit that is the actuarial equivalent of the service retirement benefit under 19-8-603 standing to the member's credit at the time of the member's disability retirement.

(2) A vested member ~~who has at least 5 years of membership service and~~ who becomes disabled as a direct result of the member's service in the line of duty:

(a) before completing 20 years of membership service must receive a disability retirement benefit equal to one-half the member's highest average compensation; or

(b) after completing 20 years or more of membership service must receive a disability retirement benefit equal to 2.5% of the member's highest average compensation for each year of service credit."

{Internal References to 19-8-701: None }

Section 29. Section 19-8-801, MCA, is amended to read:

"19-8-801. Optional forms of benefits -- designation of contingent annuitant. (1) The retirement benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted, in lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of the original benefit. If the member does not elect an optional retirement benefit pursuant to subsection (2), the member's retirement benefit is known as an option 1 benefit.

(2) An optional retirement benefit is initially payable during the member's or designated beneficiary's lifetime with a subsequent benefit, depending on the option selected, to a contingent annuitant as follows:

(a) option 2--a continuation of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant. This option may be the chosen benefit only if the adjusted age difference between the member or designated beneficiary and the contingent annuitant, other than the member's or designated beneficiary's

spouse, is 10 years or less. The adjusted age difference is either:

(i) the excess of the age of the member or designated beneficiary over the age of the nonspouse contingent annuitant based on their ages on their birthdays in a calendar year; or

(ii) if the member or designated beneficiary is under 70 years of age, the age difference determined in subsection ~~(1)(a)(i)~~ (2)(a)(i) reduced by the number of years that the member or designated beneficiary is under 70 years of age on the member's or beneficiary's birthday in the calendar year that contains the benefit starting date.

(b) option 3--a continuation of one-half of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(c) option 4--a continuation of the optional retirement benefit to one or more contingent annuitants in the event of the initial payee's death before the end of a period certain, determined as follows:

(i) the period certain commences at the time that the initial payee first begins receiving the retirement benefit and is available as either:

(A) a 10-year period certain if the member retired at 75 years of age or younger; or

(B) a 20-year period certain if the member retired at 65 years of age or younger;

(ii) if there is more than one surviving contingent annuitant, each contingent annuitant must receive a proportion of the initial payee's benefit on a share-and-share-alike basis;

(iii) if all surviving contingent annuitants die prior to the end of the period certain and the last remaining contingent annuitant has failed to name a designated beneficiary, the remaining payments must be converted to an equivalent lump-sum amount and paid to the estate of the last surviving contingent annuitant.

~~(2)~~(3) The member or the designated beneficiary who elects an optional retirement benefit shall file a written application with the board prior to the first payment of the benefit. A contingent annuitant must be identified on the application.

~~(3)~~(4) If the member or designated beneficiary or the named contingent annuitant dies before the first payment has been made under option 2 or 3, the election of the option is automatically canceled.

~~(4)~~(5) If the member dies after retirement and within 30 days from the date that the member's written application electing or changing an election of an optional retirement benefit is received by the board, the election is void.

(6) Once the member's initial retirement benefit has been received and accepted, the member cannot change the selected option except as provided in subsection (7).

~~(5)~~(7) A retired member receiving an optional retirement benefit pursuant to subsection ~~(1)(a)~~ (2)(a) or ~~(1)(b)~~ (2)(b) may file a written application with the board to have the member's optional retirement benefit revert to the regular retirement benefit available at the time of the member's retirement if:

(a) the original contingent annuitant has died, in which case the optional benefit must revert effective on the first day of the month following the contingent annuitant's death; or

(b) the member's marriage to the original contingent annuitant has been dissolved and the original contingent annuitant has not been granted the right to receive the optional retirement benefit as part of a family law order, as defined in 19-2-907. The benefit must then revert

effective on the first day of the month following receipt of the written application and verification that the family law order does not grant the optional benefit to the original contingent annuitant.

~~(6)~~(8) A member who applies to revert under subsection ~~(5)~~(7) shall, at the time of the application, choose one of the following alternatives:

(a) revert to the member's original retirement benefit, increased by the amount of any adjustments received by the member since the effective date of the member's retirement;

(b) retain the same option 2 or option 3 originally selected but name a new contingent annuitant; or

(c) select a different option and name a new contingent annuitant.

~~(7)~~(9) If the member selects an alternative under subsection ~~(6)~~~~(b)~~ (8) (b) or ~~(6)~~~~(e)~~ (8) (c), the member's retirement benefit must be calculated based on the member's and the new contingent annuitant's ages at the time of the election.

~~(8)~~(10) A written application pursuant to subsection ~~(5)~~(7) must be filed with the board within 18 months of the death of or dissolution of marriage to the contingent annuitant."

{Internal References to 19-8-801:
19-8-1002a }

Section 30. Section 19-8-1002, MCA, is amended to read:

"19-8-1002. Postretirement death payments. (1) When a retired member who elected an option 1 retirement benefit under 19-8-801 dies, 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.

(2) If a retired member who retires on or after July 1, 1997, dies without designating a contingent annuitant elected an option 2 or option 3 benefit under 19-8-801 dies with no surviving contingent annuitant, the member's designated beneficiary 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.

(3) Disability benefits are not paid from the member's account, and therefore are not subject to subsection (1) or subsection (2)."

{Internal References to 19-8-1002: None }

Section 31. 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; and

(ii) maintenance, allowances, and expenses.

(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) "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.

(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) "Newly confirmed police officer" means a member of a police force confirmed pursuant to 7-32-4113.

(8) "Police officer" means an appointed, lawfully trained, appropriately salaried, and regularly acting officer with the requisite professional certification and licensing.

~~(8)~~(9) "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)~~(10) "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)~~(11) "Surviving spouse" means the spouse married to a member at the time of the member's death.

~~(11)~~(12) "Survivor" means a surviving spouse or dependent child of the member."

{*Internal References to 19-9-104:*

19-7-801x 19-7-801x 19-9-710x
19-9-804x
19-9-804x }

Section 32. Section 19-9-710, MCA, is amended to read:

"19-9-710. Member's contribution. (1) Except as provided in subsection (2), the regular contribution as a percentage of compensation of each active member first employed by an employer as a police officer:

~~(a) on or before June 30, 1975, is 5.8%;~~

~~(b)~~(a) after June 30, 1975, is 7%;

~~(c)~~(b) after June 30, 1979, but before July 1, 1997, is 8.5%; and

~~(d)~~(c) on and after July 1, 1997, is 9%.

(2) A member covered under 19-9-1009, ~~or~~ 19-9-1010, or 19-9-1013 shall contribute 9% of the member's compensation.

(3) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code of 1954, as amended and applicable on July 1, 1985, shall pick up and pay the contributions that would be payable by the member under subsections (1) and (2) for service rendered after June 30, 1985.

(4) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution from the retirement system. These contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(5) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the member's wages as defined in 19-1-102 and in the member's compensation as defined in 19-9-104. The employer shall deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the

employer and remit the total of the contributions to the board."

{*Internal References to 19-9-710:*

19-2-1004x 19-9-1205x 19-9-1207x }

Section 33. 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; and

(ii) maintenance, allowances, and expenses.

(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 by an employer as a firefighter under the standards provided in 7-33-4106 and 7-33-4107.

(7) "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. 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.

(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 reaches both 50 years of age or older and completes 5 or more years of membership service.

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

(10) "Part-paid firefighter" means a person, other than a full-paid firefighter, employed under 7-33-4109 by a city of the second class, who receives compensation in excess of \$300 a 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.

~~(10)~~ (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.

~~(11)~~ (12) "Retirement date" means the date on which the first payment of benefits is payable.

~~(12)~~(13) "Retirement system" means the firefighters' unified retirement system provided for in this chapter.

~~(13)~~(14) "Surviving spouse" means the spouse married to a member at the time of the member's death."

{*Internal References to 19-13-104:*

19-13-601x 19-13-704x 19-13-803x
19-13-902x 33-22-136x }

Section 34. Section 19-17-605, MCA, is amended to read:

"19-17-605. Cancellation and reinstatement of disability benefits. (1) The board may cancel a member's disability benefit if:

(a) the board determines, as provided in 19-17-604, that the member is no longer disabled; or

(b) the member refuses to submit to a medical examination under 19-17-604; ~~or~~

~~(c) the member engages in a gainful occupation during the previous year and earns compensation exceeding \$5,500.~~

(2) The cancellation of a disability benefit under this section does not prejudice any right of a member to other pension benefits payable under the Volunteer Firefighters' Compensation Act.

~~(3) If the member's earnings in any year after the cancellation of disability benefits under subsection (1)(c) are less than \$5,500, the disability benefit must be reinstated."~~

{ Internal References to 19-17-605: None }

-END-