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MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY

ASSOCIATION OF MONTANA RETIRED PUBLIC EMPLOYEES, RUSSELL WRIGG, MARLYS HURLBERT, CAROLE CAREY, I. EDWARD SONDENO, Plaintiffs, v. STATE OF MONTANA, MONTANA PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION, PUBLIC EMPLOYEE RETIREMENT BOARD, GOVERNOR STEVE BULLOCK, in his official capacity, Defendants.	Cause No. DDV-2013-788 **DEFENDANTS' RESPONSE TO PLAINTIFFS' SECOND COMBINED DISCOVERY REQUESTS**

REQUEST FOR PRODUCTION NO. 17: Please produce for copying and inspection all documents and tangible things which Defendants intend to rely upon as exhibits at the trial of this matter.

RESPONSE: *See* Defendants' Lay Witness and Exhibit List. The applicable legislative history is as accessible to Plaintiffs as to Defendants. The resumes for witnesses for the State have not been obtained yet, but will be provided when obtained.

REQUEST FOR ADMISSION NO. 35: Please admit that in the May 14, 2013 letter from Governor Steve Bullock (attached as Exhibit A), Governor Bullock stated his opinion that the amendment to HB 454 which resulted in a reduction of the GABA is a "likely unconstitutional amendment."

RESPONSE: Objection, the letter speaks for itself. *See K.C.R. v. County of L.A.*, 2014 U.S. Dist. LEXIS 98278, 2014 WL 3433925 (C.D. Cal. July 14, 2014) ("requests for admission that 'simply restate sentences' from a previously authenticated document are 'unreasonably duplicative and cumulative'") (quoting *Van Wagenen v. CONRAIL*, 170 F.R.D. 86, 87 (N.D. N.Y. 1997). Defendants admit that the partial quote is accurate.

REQUEST FOR ADMISSION NO. 36: Please admit that on May 6, 2013 Governor Steve Bullock signed HB 454 which included the amendment to reduce the GABA.

RESPONSE: Admit.

REQUEST FOR ADMISSION NO. 37: Please admit that at the time Governor Steve Bullock signed HB 454 on May 6, 2013, he believed that the amendment to HB 454 reducing the GABA was likely unconstitutional.

RESPONSE: Objection, this request calls for a legal opinion. Additionally the Governor was sued in his official capacity, not individual capacity, and thus his personal beliefs are irrelevant. To the degree this request refers to the May 14, 2013 letter, *see* objection to RFA No. 35.

REQUEST FOR ADMISSION NO. 38: Please admit Governor Steve Bullock could have vetoed HB 454.

RESPONSE: Admit that the Governor has the constitutional authority to veto bills.

INTERROGATORY NO. 27: This Interrogatory is directed only at Defendant Governor Bullock. Please state all facts which led to your opinion in your May 14, 2013 letter to Mr. Wrigg, attached as Exhibit A, which states the amendments to HB 454 reducing the GABA are a "likely unconstitutional amendment."

ANSWER: Objection, Plaintiffs have asked more than the 50 interrogatories provided for by Mont. R. Civ. P. 33(a)(1). Interrogatory No. 22 asked that Defendants "set forth fully for each request and with specificity the factual basis for your refusal to unqualifiedly admit" any request for admission. Interrogatory No. 22 "should be construed as containing a [discrete] subpart for each request for admission contained in the set" and thus each request for admission responded to with "anything other than an unqualified admission" results in an additional interrogatory. *Billings v. Conseco Health Ins.*, 2011 U.S. Dist. LEXIS 142486, *5-7, 2011 WL 6152029 (W. Dist. Of Ok., Dec. 12, 2011). In your first discovery requests, Plaintiffs propounded 26 interrogatories and 26 requests for admission for which the State provided something other than an unqualified admission, for a total of 52 interrogatories (counting each RFA separately- some RFAs asked Defendants to admit entire affidavits, each paragraph of which may be a discrete subpart).

Additionally, this interrogatory calls for a legal opinion. The Governor was sued in his official capacity, not individual capacity, and thus his personal beliefs and opinions are irrelevant.

INTERROGATORY NO 28: Please identify all non-privileged communications, written and oral, that Governor Steve Bullock (including any person in Governor Bullock's office, his staff, agents and representatives) made to anyone relating to the passage, amendment or otherwise related to HB 454. For each communication, please identify the parties involved in the communication, the date and time to the extent it is known, and the subject matter of the communication. If any of the communications identified were written communication, please identify the document including that communication.

ANSWER: Objection, Plaintiffs have asked more than the 50 interrogatories provided for by Mont. R. Civ. P. 33(a)(1). See objection to Interrogatory No. 27.

Additionally, this interrogatory is unduly burdensome and vague. There is no way to search for all communications "written or oral" with the Governor or his staff regarding HB 454. Further, the requested information is not relevant to the resolution of the issues in this case. However, without waiving these objections, in an attempt to provide as much information as possible, Defendants are producing all non-privileged potentially responsive documents, pursuant to Mont. R. Civ. P. 33(d).

REQUEST FOR PRODUCTION NO. 18: Please produce for copying and inspection all documents identified in response to Interrogatory No. 28.

RESPONSE: *See* the Answer to Interrogatory 28 and the attached materials.

REQUEST FOR PRODUCTION NO. 19: Please produce for copying and inspection all non-privileged documents, including but not limited to electronically stored information, originating from and those received by Governor Steve Bullock (including his office, staff, agents and representatives) which relate in any manner to HB 454.

RESPONSE: *See* the Answer to Interrogatory 28 and the attached materials.

REQUEST FOR PRODUCTION NO. 20: To the extent not already provided, please produce for copying and inspection all non-privileged documents, including but not limited to electronically stored information, originating from and those received by Governor Steve Bullock from January 1, 2013 to the present (including his office, staff, agents and representatives) which discuss or relate to the reduction of the GABA.

RESPONSE: *See* the Answer to Interrogatory 28 and the attached materials.

REQUEST FOR PRODUCTION NO. 21: To the extent not already provided, please provide all documents, including but not limited to electronically stored information, originating from and those received by the Office of Budget and Program Planning from January 1, 2013 to the present which discuss or relate in any manner to HB 454.

RESPONSE: *See* the Answer to Interrogatory 28 and the attached materials.

INTERROGATORY NO. 29: Please identify the author(s) of the handwritten notes in the documents received by Plaintiffs from the Montana Legislative Services Division, Senate Finance and Claims Committee records, which are attached hereto as Exhibit B. Please specifically identify the author of the handwritten notes on the page that is bates labeled PAGE000049 of Exhibit B which states "Separate section of code for tier 1, Tier 2 & Tier 3 Set GABA at 1.5% for each Less 0.1% per year for each year it amortizes over 25 years. No trigger to reinstate."

ANSWER: Objection, Plaintiffs have asked more than the 50 interrogatories provided for by Mont. R. Civ. P. 33(a)(1). See objection to Interrogatory No. 27.

Notwithstanding the objection, the writing is believed to be that of Shawn Graham, formerly Operations Manager with the Office of Budget and Program Planning, now the Executive Director of the Teachers' Retirement System. His phone number is 406-444-3134, address is Montana Teachers' Retirement System, P.O. Box 200139, Helena, MT 59620-0139, and email is sgraham@mt.gov.

DATED this ~~15th~~ 16th day of September, 2014.

TIMOTHY C. FOX
Montana Attorney General
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401

By: ______________________
J. STUART SEGREST
Assistant Attorney General
As to Objections

VERIFICATION

Dan Villa hereby declares under penalty of perjury that the following is true and correct:

That he is an authorized representative of the Montana Budget and Program Planning Office, that he has read the foregoing, and that the representations are true and correct to the best of his knowledge.

Dated this 16th day of September, 2014, at Helena, Montana.

DAN VILLA
Budget Director

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing document to be mailed to:

Mr. Leo Berry
Mr. Chad E. Adams
Ms. Jessie L. Luther
Browning, Kaleczyc, Berry
& Hoven, P.C.
800 N. Last Chance Gulch, Suite 101
P.O. Box 1697
Helena, MT 59624-1697

DATED: 9/16/14

Leo Berry
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MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

ASSOCIATION OF MONTANA RETIRED PUBLIC EMPLOYEES, RUSSELL WRIGG, MARLYS HURLBERT, CAROLE CAREY, I. EDWARD SONDENO, Plaintiffs, v. STATE OF MONTANA, MONTANA PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION, PUBLIC EMPLOYEE RETIREMENT BOARD, GOVERNOR STEVE BULLOCK, in his official capacity, Defendants.	Case No. DDV-2013-788 **PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

COMES NOW, Plaintiffs Association of Montana Retired Public Employees, Russell Wrigg, Marlys Hurlbert, Carole Carey, and I. Edward Sondeno, by and through their counsel of record, Leo Berry, Chad E. Adams, and Jessie L. Luther of the law firm Browning, Kaleczyc, Berry & Hoven, P.C., and hereby submit this Motion for Summary Judgment. Pursuant to Montana Rule of Civil Procedure 56, Plaintiffs move this Court to enter summary judgment in their favor. A brief in support of this motion is filed concurrently herewith.

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DATED this 5th day of September, 2014.

BROWNING, KALECZYC, BERRY & HOVEN, P.C.

By ______________________
Leo Berry
Chad E. Adams
Jessie L. Luther

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of September 2014 a true copy of the foregoing was mailed by first-class mail, postage prepaid, addressed as follows:

Timothy C. Fox
Michael G. Black
J. Stuart Segrest
Montana Attorney General
P.O. Box 201401
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____
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Attorneys for Plaintiffs

COPY

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

ASSOCIATION OF MONTANA RETIRED PUBLIC EMPLOYEES, RUSSELL WRIGG, MARLYS HURLBERT, CAROLE CAREY, I. EDWARD SONDENO, Plaintiffs, v. STATE OF MONTANA, MONTANA PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION, PUBLIC EMPLOYEE RETIREMENT BOARD, GOVERNOR STEVE BULLOCK, in his official capacity, Defendants.	Case No. DDV-2013-788 **PLAINTIFFS' BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

COMES NOW, Plaintiffs Association of Montana Retired Public Employees, Russell Wrigg, Marlys Hurlbert, Carole Carey, and I. Edward Sondeno (hereinafter the "Retirees" or "Plaintiffs"), by and through their counsel, Leo Berry, Chad E. Adams, and Jessie L. Luther, of Browning, Kaleczyc, Berry & Hoven, P.C., and submit this Brief in Support of Plaintiffs' Motion for Summary Judgment. For the reasons stated herein, summary judgment should be granted for the Retirees and judgment entered against Defendants State of Montana, Montana Public Employee Retirement Administration, Public Employee Retirement Board, and Governor

Steve Bullock, in his official capacity (hereinafter the "State" or "Defendants"), on the Retiree's claim of unconstitutional impairment of contract and taking of private property.

INTRODUCTION

Retirees' Complaint seeks to require the State to live up to its end of the contractual bargain struck with its retired public employees. In Montana, the "public employees" involved in this action are State, County and City employees that are members of the Public Employee Retirement System ("PERS") defined benefit plan[1]. Specifically, the State adopted a 3% Guaranteed Annual Benefit Adjustment ("GABA"). Retirees paid contributions into PERS prior to retirement, relied upon the 3% GABA in making decisions whether and when to retire, and some purchased service credit which was valued by the State based upon a 3% GABA. The State repeatedly represented to its employees that they would receive a 3% GABA. However, by enacting last minute amendments to HB 454 which took away the 3% GABA from Montana's Retirees with no corresponding increase of any kind to benefit the Retirees, the State has shown it is not going to abide by its contractual obligations. It is a sad day when the State cannot be trusted to meet its contractual obligations to its own public servants. Fortunately, the United States and Montana Constitutions protect the Retirees' contracts with the State and require that the State continue to pay the 3% GABA which was promised and adopted by the Montana Legislature.

The State's actions in stripping away the contractually-owed GABA from these Retirees violate the Contract Clause of the Montana and United States Constitutions and result in an unconstitutional taking under Art. II, §29 of the Montana Constitution. In order to require the State to live up to its contractual obligations, on October 30, 2013, the Retirees filed their Complaint. The State filed its Answer on December 19, 2013. Retirees sought a preliminary injunction which was granted on December 20, 2013. Discovery closes on September 29, 2014.

[1] For purposes of this Motion for Summary Judgment, PERS refers to the PERS defined benefit plan, unless specifically stated otherwise.

Based on the undisputed facts, pursuant to Rule 56 of the Montana Rules of Civil Procedure, Retirees are entitled to summary judgment on their claim for impairment of contract. The issues to be addressed by the Court are legal issues involving interpretation of the law and facts that are not disputed. The undisputed evidence shows no genuine issues of material fact exist, thus, this Court should enter judgment in favor of the Retirees. As demonstrated in this brief, it is clear the State unconstitutionally impaired the Retirees' employment and retirement contracts by reducing the GABA.

STATEMENT OF UNDISPUTED FACTS

Please see the statement of undisputed facts ("SUF") filed contemporaneously herewith.

ARGUMENT

The GABA is protected under the employees' and retirees' contracts with the State for public service retirement benefits. A reduction in the GABA is a substantial unconstitutional impairment of the contract and a taking. The Montana Contract Clause is a fundamental right found in the Declaration of Rights; therefore strict scrutiny must be applied in analyzing this claim. The State has the burden to prove that it had a compelling government interest and that the law is narrowly tailored to achieve such. Here, the State cannot meet this high burden because the GABA reduction was not narrowly tailored to a compelling interest and there were several available alternatives to reducing the GABA that would not have infringed on constitutionally protected rights. The resolution of this issue in the Retirees' favor will conclude this case as it resolves all of the issues before the Court.[2] Resolution of the Contract Clause claims in Plaintiffs' favor will render Plaintiffs' other claims, with exception of the claim for attorneys' fees, moot.

I. SUMMARY JUDGEMENT STANDARD.

Montana Rule of Civil Procedure 56 governs this motion for summary judgment. The purpose of Rule 56 is to "dispose of those actions which fail to raise a genuine issue of material

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[2] Should the Court disagree and find that summary judgment is not appropriate, there may be additional summary judgment motions filed on specific issues raised in the Retirees' Complaint, such as the "1 for 5" service credit purchase breach of contract and promissory estoppels claims under the Montana and U.S. Constitutions.

fact, thereby eliminating the burden and expense of an unnecessary trial." *Morales v. Tuomi*, 214 Mont. 419, 422, 693 P.2d 532, 534 (1985). Summary judgment should be rendered when "the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." Mont. R. Civ. P. 56(c)(3). "The constitutionality of a statute is a question of law[.]" *Rohlfs v. Kelmenhagen, LLC*, 2009 MT 440, ¶ 7, 354 Mont. 133, 227 P.3d 42. The initial burden rests upon the moving party to show, viewing the factual evidence in a light most favorable to the non-moving party, that there is no genuine issue of material fact. *See e.g., Roy v. Blackfoot Telephone Coop.*, 2004 MT 316, ¶ 11, 324 Mont. 30, 101 P.3d 301.

Once the moving party has met its burden, the burden then shifts to the non-moving party to "set forth specific facts showing that there is a genuine issue for trial" and they "must do so with more than mere denial and speculation." *Old Elk v. Healthy Mothers, Healthy Babies, Inc.*, 2003 MT 167, ¶ 15, 316 Mont. 320, 73 P.3d 795; *Roy*, ¶ 11. Evidence offered in opposition to summary judgment "must be in proper form and conclusions of law will not suffice; the proffered evidence must be material and of a substantial nature, not fanciful, frivolous, gauzy or merely suspicious." *Old Elk*, ¶ 16. Moreover, only admissible evidence can be considered in determining whether genuine issues of material fact exist. *See Treutel v. Jacobs*, 240 Mont. 405, 408, 784 P.3d 915, 917 (1990).

A party opposing summary judgment "may not rely merely on allegations or denials in its own pleading; rather, its response must – by affidavit or as otherwise provided in [Mont. R. Civ. P. 56] – set out specific facts showing a genuine issue for trial. If the opposing party does not so respond, summary judgment should, if appropriate, be entered against that party." Mont. R. Civ. P. 56(e)(2).

II. REDUCTION OF THE GABA VIOLATES THE UNITED STATES AND MONTANA CONSTITUTIONS.

A. Retirees seek a declaratory judgment that the HB 454 GABA reduction is unconstitutional and ask the Court to permanently enjoin the State from implementing the GABA reduction.

Retirees' Complaint (C.D. # 1) seeks a declaratory judgment under Montana Code Annotated § 27-8-101 that section 5 of HB 454 which reduces the GABA for current retirees and employees is a violation of the Contract Clauses of the Montana and United States Constitutions and is an unconstitutional taking. Retirees also seek a permanent injunction barring the State from implementing the GABA reduction contained in HB 454.

The purpose of the Uniform Declaratory Judgments Act is to "settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations." Mont. Code Ann. § 27-8-102. The Uniform Declaratory Judgments Act confers on this Court the "power to declare rights, status and other legal relations whether or not further relief is or could be claimed." Mont. Code Ann. § 27-8-101. It is well settled law in Montana that declaratory procedure is appropriate to determine a constitutional question or determine a constitutional right. *See e.g., MEA-MFT v. McCulloch*, 2012 MT 211, 366 Mont. 266, 291 P.3d 1075; *McGillivray v. State*, 1999 MT 3, 293 Mont. 19, 972 P.2d 804; *Bd. of Regents v. Judge*, 168 Mont. 433, 543 P.2d 1323 (1975).

The United States and Montana Constitutions' Contract Clauses protect contracts between private parties, and contracts between a private party and a government entity from being impaired by any action of a government entity. Mont. Const. Art. II, § 31; U.S. Const., Art. I, § 10. The Montana Supreme Court has held that the Montana and Federal Constitutions' Contract Clauses have "been interpreted as interchangeable guarantees against legislation impairing the obligation of contract," making cases interpreting the Federal Contract Clause instructive in the analysis of Montana's Contract Clause. *City of Billings v. County Water Dist. of Billings Heights*, 281 Mont. 219, 227, 935 P.2d 246, 251 (quoting *Carmichael v. Workers' Compensation Court*, 234 Mont. 410, 414, 763 P.2d 1122, 1125 (1984) (citations omitted)).

The Complaint (C.D. # 1) alleges other Contract Clause, breach of contract and promissory estoppel claims, but it is not necessary for the Court to consider those allegations at this time because the primary issue of whether the Legislature violated the U.S. and Montana

Constitutions' Contract Clauses and committed an unconstitutional taking when reducing the 3% GABA, if decided in Plaintiffs' favor, will resolve those claims.

B. The Rule – Contract Clause Analysis.

The Contract Clause is found in Article II of the Montana Constitution entitled "Declaration of Rights". Mont. Const. Art. II, § 31. In order to determine whether a constitutional right has been lost, the Court "must first determine which of the established levels of scrutiny is appropriately applied: strict scrutiny, middle-tier scrutiny or the rational basis test." *Montana Cannabis Indus. Ass'n v. State*, 2012 MT 201, ¶16, 366 Mont. 224, 286 P.3d 1161. The Montana Supreme Court has held that all rights found in Article II are fundamental rights to which strict scrutiny must be applied. *Kortum-Managhan v. Herbergers NBGL*, 2009 MT 79, ¶ 25, 349 Mont. 475, 204 P.3d 693; C.D. # 28.

Strict scrutiny is the most rigorous test against the statute and places the burden squarely on the government to show that the law which is alleged to be unconstitutional "is narrowly tailored to serve a compelling government interest." *See Montana Cannabis Indus. Ass'n*, ¶16. The United States Supreme Court has applied strict scrutiny analysis in reviewing Contract Clause violations where the government is one of the parties to a contract. *See e.g., United States Trust Co. of New York v. New Jersey*, 431 U.S. 1, 25-26 (1977) (holding proper test is whether law is necessary to serve an important public purpose, but also indicating that deference to the government's assessment of necessity of the law is inappropriate when its own self interests are at stake). Notably, the following year the United States Supreme Court extended the *U.S. Trust* holding to private contracts in *Allied Structural Steel Co. v. Spannaus*, 438 U.S. 234 (1978). However, in *Energy Reserves Group, Inc. v. Kansas Power & Light Co.*, 459 U.S. 400 (1983) and *Exxon Corp. v. Eagerton*, 462 U.S. 176 (1983), the Court abrogated the strict scrutiny analysis in cases involving impairment of contracts between private parties. The Supreme Court has never retreated from its application of strict scrutiny to cases where impairment of public contracts is alleged and as such *U.S. Trust* is applicable here.

Strict scrutiny application of the three-part test to analyze a Contract Clause claim is: (1) whether the legislation is a substantial impairment to the contract; (2) whether the State has a compelling governmental purpose for the law; and (3) whether the law is narrowly tailored to serve the compelling governmental interest. *See Kortum-Managhan*, 2009 MT 79 at ¶ 25, 204 P.3d 693; *City of Billings*, 281 Mont. 219 at 227–28, 935 P.2d 246 at 251.

The Montana Contract Clause cases between private parties and government entities predating the *Kortum-Managhan* holding applied a heightened scrutiny analysis specifically noting that "a heightened level of scrutiny applies when a governmental entity is a party to the contract." *City of Billings*, 281 Mont. at 229, 935 P.2d at 252; *U. of Hawaii Prof. Assembly v. Cayetano*, 183 F.3d 1096, 1107 (9th Cir. 1999). The *City of Billings* court phrased this heightened scrutiny three part test in other words as: (1) whether the legislation is a substantial impairment to the contract; (2) whether the State has a significant and legitimate purpose for the law; and (3) whether the law imposes reasonable conditions which are reasonably related to achieving the legitimate and public purpose. *City of Billings*, 281 Mont. at 227–28, 935 P.2d at 251. Retirees suggest there is no real difference in the strict scrutiny analysis cited in *Kortum-Managhan* and *City of Billings* given the context of *City of Billings* and specifically the court's discussion of heightened scrutiny therein. In any event, the strict scrutiny analysis has been applied in federal Contract Clause cases including *U.S. Trust* and *University of Hawaii,* which are controlling precedent for Retirees' claims that the GABA reduction violated the United States Constitution's Contract Clause.

Moreover, when the government is a party to the contract it is alleged to have impaired, such as in this case, a higher level of scrutiny applies to its actions. *City of Billings*, 281 Mont. at 229, 935 P.2d at 252; *U. of Hawaii Prof. Assembly*, 183 F.3d at 1107. This is especially true when considering impairment of financial terms of contracts. The United States Supreme Court explained in *U.S. Trust*, that "[i]f a state could reduce its financial obligations whenever it wanted to spend money for what it regarded as an important public purpose, the Contract Clause would provide no protection at all." *U.S. Trust Co.*, 431 U.S. at 29. This more stringent standard requires that "Defendants bear the burden of proving that the impairment was reasonable and necessary because '[t]he burden is placed on the party asserting the benefit of the statute only when that party is the state.'" *U. of Hawaii Prof. Assembly*, 183 F.3d at 1106; *see also Buckman v. Montana Deaconess Hosp.*, 224 Mont. 318, 730 P.2d 280 (1986) (requiring the State to prove a "significant public interest" before impairing rights under the Workers' Compensation Act, which is "based on contract theory."). The "higher level of scrutiny", strict scrutiny, is the standard that is applicable here and it properly places the burden on the state to demonstrate, at the very least, the necessity of the reduction in the GABA to satisfy a compelling governmental purpose.

C. The State's Actions Reducing the GABA in HB 454 Violate the Montana and United States Constitutions.

1. Retirees have a contract with the State to receive the GABA as part of their retirement benefits.

In analyzing a contract clause claim, the existence of a contract must first be shown. *U.S. Trust Co.*, 431 U.S. at 17 n. 14, 91 S.Ct. at 1515. Montana law provides that retirement benefits "are payable pursuant to a contract as contained in statute. The contract is entered into on the first day of a member's covered employment and may be *enhanced* by the legislature." Mont. Code Ann. § 19-2-502 (emphasis added). "An employee's contractual pension expectations are measured by benefits which are in effect not only when employment commences, but which are thereafter conferred during the employee's subsequent tenure." *Betts v. Bd. of Administration*, 21 Cal.3d 859, 866, 582 P.2d 614, 619 (1978); *see also Fields v. Elected Officials' Retirement Plan*, 234 Ariz. 214, 320 P.3d 1160, ¶ 27 (2014) ("benefits are calculated as of the time he began employment and any beneficial modifications made during the course of his employment") citing *Thurston v. Judges' Ret. Plan*, 179 Ariz. 49, 51, 876 P.2d 545, 547 (1994) ("when the amendment [to retirement benefits] is beneficial to the employee or survivors, it automatically becomes part of the contract by reason of the presumption of acceptance"). SUF ¶ 26.

The Retiree's contract for retirement benefits with the State is codified in Title 19, Chapters 2 and 3 of the Montana Code Annotated, and the GABA is one of the contractual obligations the State has agreed to pay to the Retirees. SUF ¶¶ 17-18, 24-27. The contract right protecting retirement benefits does not allow benefits to be diminished, but benefits may be enhanced. *Betts*, 21 Cal.3d at 866, 582 P.2d at 619; *Fields*, 234 Ariz. at ¶ 27, 320 P.3d at ¶ 27. The State argued at the preliminary injunction hearing that the GABA is not part of the Retirees' "benefit" as defined in Mont. Code Ann. § 19-2-302(10), but provided no legal authority to support that position. The definition provides that a "benefit" is "the service retirement benefit, early retirement benefit, or disability retirement benefit or survivorship benefit payment provided by a defined benefit retirement plan." *Id.* at § 19-2-302(10)(a). The statute establishing the GABA provides: "on January 1 of each year, the permanent monthly benefit payable during each preceding January to each recipient who is eligible . . . must be increased by the applicable percentage . . . ." *Id.* at § 19-3-1605(1).

The Retiree's contract was enhanced in 1997 with the passage of HB 170 creating the GABA. SUF ¶ 24. This legislation clearly intended that the GABA apply to the retirement benefits of retired public employees. SUF ¶ 25. The HB 170 Statement of Intent provides the purpose of the GABA is "to guarantee a minimum level of annual benefit increases for retired members and their contingent annuitants or survivors under each of the statewide public employee retirement systems [including PERS, and] . . . to address the erosion of retirement benefits caused by inflation." *Id.* The Statement of Intent further ensured that retirement benefits for retired members would not be impaired because "the GABA [will] be substituted for other benefits in cases in which the GABA is as valuable or more valuable to members." SUF ¶ 26. A significant purpose in enacting the GABA was to enhance retirement benefits to provide retirees with a stable source of income as the value of the dollar decreased over time and to restore the purchasing power of the original retirement benefit. SUF ¶¶ 25-26, Ex. 18 at ¶¶ 7-8.

The GABA is not a cost of living adjustment ("COLA"). The GABA, unlike a COLA, is not simply an adjustment for cost of living increases, but applies irrespective of any tie to cost of living increases to provide a *guaranteed* increase in the amount of the benefits paid. The State published materials informing PERS members that "[t]he GABA is **not** tied to inflation, but gives you and your family some inflation protection!" SUF ¶ 61. The GABA cannot be excluded from the definition of "benefit," as it is part of the calculation used to determine the benefits payable to public employees. By contrast, a COLA is generally based upon the increase in inflation where the benefit is increased by the lower of a specific percentage or inflation. When the GABA was created and increased to 3%, it was set at a specific percentage and not tied to any inflation indexes. SUF ¶¶ 24, 27. Even the name of the contract enhancement was carefully considered to make clear that the *guaranteed* annual benefit adjustment would be *guaranteed* over the life of the retiree. SUF ¶¶ 61, Ex. 2, ¶ 12. The State repeatedly reinforced that "[t]he GABA ensures a 3% increase in your benefit from the previous year" in handbooks, workbooks, presentations, letters, and annual statements it supplied to PERS members. SUF ¶¶61 – 63, Exs. 25, 26, 27.

In determining whether the formula establishing benefit increases after retirement was itself a benefit and protected under a state constitution pension clause, the Arizona Supreme Court looked to "the history behind the provision, the purpose sought to be accomplished by its enactment, and the evil sought to be remedied." *Fields*, 234 Ariz. at ¶ 22, 320 P.3d at ¶ 22 (internal quotations and citations omitted). Based on the history of the provision, the Court determined that the benefit increases were included in the term "benefit" because the statute establishing the increases provided "that eligible retired members are *entitled* to receive [a] permanent benefit increase in their base benefit." *Id.* at ¶ 23 (internal quotations and citations omitted, emphasis in original). Similarly, this Court noted that "[t]he GABA does not change the definition of "benefit;" it merely applies an enhancement to those benefits." C.D. # 18 at p. 9. Defendants try to artificially segregate the GABA increase from the Retirees' "benefit". However, the 3% GABA increase each year is applied to the "benefit" which includes the prior years' increases. The benefit includes the GABA increases. The State's argument is a distinction without a difference.

Public employee retirement cases from other states have held that COLAs are not part of a public employee's contract and may be reduced or eliminated, but those cases are distinguishable based upon the specific language of each respective state's pension statutes. A few of these cases are discussed below. This Court has already been briefed[3] on the Maine case where the court held the COLA reduction was not unconstitutional because Maine's statute expressly excluded the COLA from its identified list of solemn contractual provisions, and the statute provided that any non-solemn provisions could be reduced or eliminated. *Maine Ass'n of Retirees v. Board of Trustees of the Me. Pub. Employees Ret. Sys.*, 954 F.Supp.2d 38, 51, 2013 WL 3212360, *10 (D.Me. June 24, 2013).

The Washington Supreme Court reversed summary judgment in favor of public employees that the repeal of uniform cost of living adjustments ("UCOLA") was an unconstitutional impairment of the retired public employees' contracts. *Washington Edu. Assn. v. Washington Dept. of Ret. Sys.*, __ P.3d __, 2014 WL 3970240. The Court concluded there was no contract right to the UCOLA because the statute creating the UCOLA "could not have been more explicit in reserving the power to amend the UCOLA statute and disclaiming any grant of contractual rights." *Id.* at *6. The statutory language provided: "The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to receive this postretirement adjustment not granted prior to that time." *Id.* at *2 (internal quotations and citations omitted).

The New Mexico Supreme Court decided the COLA was not part of the retirement benefit until it was paid. *Bartlett v. Cameron*, 316 P.3d 889 ¶ 24, 300 Ed. Law Rep. 554, 2014 NMSC 002. In so holding, the Court looked to the language and history of the COLA statute and highlighted its tie to the consumer price index ("CPI") which prior to 2010 would have allowed the COLA to be decreased corresponding to a decrease in the CPI. *Id.* at ¶¶ 20–22. The Court also noted the "absence of any contrary indication from our Legislature". *Id.* at ¶ 24.

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[3] For a more in depth discussion of this case, *see* Defendants' Notice of Supplemental Authority, C.D. # 21, and Plaintiffs' Response to Defendants' Notice of Supplemental Authority, C.D. # 25.

These cases are distinguishable from our case because the GABA is not a COLA. Montana statutes have never provided that the GABA is tied to the CPI or that it may be reduced, and the Legislature intended the GABA to be a permanent increase. SUF ¶¶ 25-26, 61-63, Exs. 18, 2. Defendants also repeatedly told employees and retirees in letters, retirement notices, handbooks, workbooks, and annual statements that "[y]ou will receive your gross monthly retirement benefit for your lifetime. This benefit will increase by 3% each January, . . . in accordance with the GABA." SUF ¶¶ 61-63, Exs. 25, 26, 27. The State also told employees and retirees that their "retirement benefits are a protected contract right." *Id.* Further, these cases, rather than weakening the Retirees' argument, instead reinforce the fact that the Montana Legislature has not carved out the GABA from otherwise applicable contract guarantees. It is clear the Montana Legislature knows how to specifically carve out obligations to its employees from what would otherwise be contractual obligations, as it did so in Mont. Code Ann. § 19-3-2106. In that section, the State provided limited contract rights, similar to what Maine and Washington had done, but only for the defined contribution plan and the university system retirement program.

> **Limited contract right.** The statutory provisions governing the defined contribution plan and the university system program are subject to amendment by the legislature. Employees choosing the defined contribution plan or the university system retirement program pursuant to this part do not have a contract right to the specific terms and conditions specified in statute on the date the employee's choice becomes effective.

Mont. Code Ann. § 19-3-2106 (emphasis in original). There is no similar limitation on contract rights provided in the statutes governing the PERS defined benefit plan.

Looking to the history of the GABA provision, it is clear the provision was intended to address the problem of the eroding value of the dollar, to increase pension benefits so retirees could maintain a stable standard of living, and to attempt to restore the purchasing power of the original benefit. SUF ¶¶ 24-27, Exs. 2, 18. The language of the GABA statute itself says that "the permanent monthly benefit . . . must be increased" by the applicable GABA percentage "each year". Mont. Code Ann. § 19-3-1605(1). Based on the legislative history, the fact that the

GABA is not a COLA, the language of the statute creating the GABA, and the repeated promises to public employees and retirees, "eligible retired members are *entitled* to receive [the] *permanent* benefit increase in their base benefit" each year. *Fields*, ¶ 23 (emphasis added, internal citations and quotations omitted); C.D. # 28, p. 9; SUF ¶¶ 61-63, Exs. 25, 26, 27. Here, the Retirees' benefits simply cannot be determined without reference to the GABA. The GABA determines the guaranteed amount of the benefit payable to the Retirees. Similar to *Fields*, the GABA is clearly part of the protected retirement benefit under employees' and Retirees' contracts with the State. C.D. # 28, at p. 9.

2. The Retirees' contract was substantially impaired by the GABA reduction contained in Section 5 of HB 454.

The Montana Supreme Court has held, in determining whether there is a substantial impairment, "[t]otal destruction of contractual expectations is not necessary." *Neel v. First Federal Savings and Loan Assn. of Great Falls*, 207 Mont. 376, 392, 675 P.2d 96, 105 (1984). "An impairment of a public contract is substantial if it deprives a private party of an important right, thwarts performance of an essential term, defeats the expectations of the parties, or alters a financial term." *S. California Gas v. City of Santa Ana*, 202 F.Supp.2d 1129, 1133 (2002) (internal citations omitted); *see also U. of Hawaii Prof. Assembly*, 183 F.3d at 1104; *U.S. Trust Co.*, 431 U.S. at 25 n. 23, 27.

A pay lag of one to three days has been held to be a substantial impairment to a contract because employees may then have difficulty meeting their financial obligations. In the *University of Hawaii* case, the Ninth Circuit Court of Appeals held that "[e]ven a brief delay in getting paid can cause financial embarrassment and displacement of varying degrees of magnitude." *Id.* at 1106. In that case, unlike the contract here, the employees' pay was not going to be reduced, it was only going to be delayed for one to three days. *Id.* at 1100. Other jurisdictions have held that reduction in a cost of living adjustment and eliminating the cost of living adjustment on a portion of the retirees' benefits are substantial impairments. *Booth v. Sims*, 193 W.Va. 323, 456 S.E.2d 167 (1995); *Strunk v. Public Employees Ret. Bd.*, 338 Or. 145, 108 P.3d 1058 (2005). Here, the Retirees' GABA increase is first permanently cut in half and then further reduced based upon the funded ratio in the most recent actuarial valuation. SUF ¶¶ 38-39. Had this Court not issued a preliminary injunction, the Retirees and all retired public employees already receiving benefits would have had the GABA reduced to 1%. SUF ¶ 44. If a mere delay in pay is a substantial impairment, there is no question that a reduction in the amount of the retirement benefit to actually be received is also a substantial impairment.

The Retirees' have made contributions to PERS throughout their employment. SUF ¶ 18. Part of these contributions went to pay for the GABA. SUF Ex. 2, ¶ 10. The State repeatedly represented to employees that upon retirement they would receive a 3% GABA in State-published handbooks, videos, and other documents explaining PERS and available retirement benefits. SUF ¶¶ 61-63, Exs. 25-27. Reducing the retirement benefits that have been promised to and paid for by public employees is a substantial impairment.

The Retirees and those similarly situated depend on their PERS benefits to pay their bills. Everyday expenditures for mortgage payments, health insurance, other health care costs, prescription medication, heat, and food may all be impacted by this reduction. Some retirees use the increased benefit from the GABA to pay for the increases in their health insurance and without the GABA increases may struggle to continue paying for necessary health insurance. SUF ¶¶ 58-59, Exs. 20-23. Retirees relied on the promise of a 3% GABA when making the decision whether they could afford to retire. SUF ¶¶ 57, 59, Exs. 18-19, 22-23. These Retirees have served, in some cases over 30 years in the public sector and are dependent on their pension benefits as their primary source of income. SUF ¶¶ 57-59, Exs. 18-23. Most Retirees are unable to go back to work due to age or health concerns, and those that are able have begun to supplement their already meager retirement incomes. SUF ¶¶ 57-58, Exs. 18-21. The drastic reduction in the GABA found in section 5 of HB 454 substantially alters a financial term of the Retirees' contracts with the State and is a substantial impairment of those contracts.

It must also be noted that the GABA increase is compounded annually. In other words, the 3% increase is applied to the benefit which includes prior years' increases. The losses to the retirees over a 10, 20, or 30 year period results in the loss of thousands, and in some cases, many thousands of dollars.

3. The State cannot prove reducing the GABA was narrowly tailored to achieving a compelling government interest.

This prong of the test requires the party asserting the benefit of the statute, here the State, to prove it had a compelling government interest in reducing the GABA. *U. of Hawaii Prof. Assembly*, 183 F.3d at 1106. "Legislation that implicates a fundamental constitutional right is evaluated under a strict scrutiny standard, whereby the government must show that the law is narrowly tailored to serve a compelling government interest." *Montana Cannabis Indus. Assn*, 2012 MT 201, ¶ 16, 366 Mont. 224, 286 P.3d 1161 (citing *Snetsinger v. Mont. Univ. Sys.*, 2004 MT 390, ¶ 17, 325 Mont. 148, 104 P.3d 445). The right to be free from laws impairing the obligation of contract is found in the Declaration of Rights in Article II of the Montana Constitution. Mont. Const. Art. II, § 31.

The State is required under the Montana Constitution to fund public employee retirement systems on an actuarially sound basis, meaning the system assets must be sufficient to pay all system liabilities or amortize in under 30 years. Mont. Const. VIII, § 15, Mont. Code Ann. § 19-2-409. While Retirees do not dispute the State's obligation to ensure PERS is actuarially sound is a compelling governmental interest, Retirees dispute that the method which the State employed allegedly for the purpose of achieving this purpose passes constitutional muster. Indeed, reducing the GABA and placing the entire burden of any unfunded liability primarily on the backs of the Retirees is not narrowly tailored to achieve this interest given the available alternatives that would not have raised constitutional concerns.

The Ninth Circuit Court of Appeals' decision in the *University of Hawaii* case is instructive. There the court held that a "pay lag" law which required that the state delay payment of state employee paychecks by a few days six times per year in order to ostensibly help with a state funding crisis violated the Contract Clause of the United States Constitution. The court held that the pay lag was a substantial impairment of the public employees' contract rights stating,

> Plaintiffs are wage earners, not volunteers. They have bills, child support obligations, mortgage payments, insurance premiums and other responsibilities. Plaintiffs have the right to rely on the timely receipt of their paychecks. Even a brief delay in getting paid can cause financial embarrassment and displacement of varying degrees of magnitude. *Id.* at 1106.

Once the court determined a substantial impairment existed, the court next determined whether that impairment was "reasonable and necessary to fulfill an important public purpose." *Id.* The court required that the state defendants bear the burden of proving the impairment was reasonable and necessary. *Id.*, citing *Nevada Employees Assn. v. Keating*, 903 F.2d 1223, 1228 (9th Cir. 1990).

In order to determine reasonableness and necessity, the court looks to the extent of the impairment as well as the public purpose to be served. *See U. of Hawaii Prof. Assembly*, 183 F.3d at 1107. An impairment "may not be considered necessary if there is 'an evident and more moderate course' of action that would serve Defendants' 'purposes equally well.'" *Id., quoting U.S. Trust*, 431 U.S. at 31. This is because the Contract Clause of the United States Constitution "limits the ability of a State, or subdivision of a State, to abridge its contractual obligations without first pursuing other alternatives." *Id.* The analysis of other less-restrictive or less-impairing alternatives is common in application of the "narrowly tailored" portion of applying strict scrutiny. *See e.g., C&A Carbone, Inc. v. Town of Clarkstown, N.Y.*, 511 U.S. 383, 392 (1994) (state must demonstrate "under rigorous scrutiny, that there is no other means to advance a legitimate local interest."); *Oregon Waste Sys., Inc. v. Dept. of Envtl. Quality of State of Or.*, 511 U.S. 93, 100-01 (1994) (under strict scrutiny regulation must be invalidated unless state can show it advances legitimate purpose that cannot be adequately served by other non-discriminatory alternatives); *Hughes v. Oklahoma*, 441 U.S. 322, 337-38 (1979) (state required to prove regulation is "least discriminatory alternative" to advance legitimate government purpose).

With respect to Contract Clause cases, the United States Supreme Court has stated that "[s]tates are not free to consider substantial contractual impairments on a par with other policy alternatives." *U.S. Trust*, 431 U.S. at 30-31, 97 S.Ct. at 1521-22. "If a state could reduce its financial obligations whenever it wanted to spend the money for what it regarded as an important public purpose, the Contract Clause would provide no protection at all" because a "governmental entity can always find a use for extra money, especially when taxes do not have to be raised." *U. of Hawaii Prof. Assembly*, 183 F.3d at 1107 (citing *U.S. Trust*, 431 U.S. at 26); *S. California Gas*, 202 F.Supp.2d at 1137. In *University of Hawaii*, the court held that the pay lag law was neither reasonable nor necessary because the state failed to prove that other less impairing alternatives were examined and properly rejected. *Id.* at 1107. The court noted that although "perhaps politically more difficult, numerous other alternatives exist which would more effectively and equitably raise revenues" and would not require the "brunt of Hawaii's budgetary problems be borne by its employees." *Id.* The court explained that some of the potential alternatives were a federal maximization project, additional budget restrictions, repeal of tax credits, and the raising of taxes. *Id.*; *see also Keating*, 903 F.2d at 1228 (rejecting law penalizing early withdrawal of pension benefits where other alternatives had not been examined by the state).

Similarly, the Defendants in this case cannot meet their burden of showing that taking away the GABA, which was a political eleventh-hour amendment to HB 454 is the least-impairing alternative to fulfill the purpose of funding PERS on an actuarially sound basis. While it is the State's burden to show there were no less-impairing alternatives, or if there were less-impairing alternatives to show that those were considered and properly rejected, Retirees contend that there are in fact several less-impairing alternatives that the State could have implemented that would not have impaired the Retirees' rights with respect to the GABA.

Even if the State could prove that Section 5 of HB 454 served a significant and legitimate public purpose, the drastic reductions to the GABA contained in Section 5 of the bill are neither reasonable nor necessary. There were several other options available to the State to return PERS to actuarially sound funding that did not involve reducing the GABA. "[T]he State cannot resort to contract violations to solve its financial problems." *U. of Hawaii Prof. Assembly*, 183 F.3d at 1106. "When a state or city impairs its own agreements by imposing additional financial burdens on a private party, obvious more moderate alternatives include raising revenues through higher taxes or preserving funds through budget restrictions." *S. California Gas*, 202 F.Supp.2d at 1139, *U. of Hawaii Prof. Assembly*, 183 F.3d at 1107.

These alternatives include, first, extending the 30 year amortization period. While the Montana Constitution requires that the PERS fund be actuarially sound, the Constitution does not require any specific amortization period. Mont. Const. Art. VIII, § 15. Extending an amortization period is among the alternatives other courts have considered as less-impairing in other circumstances. *See Keating*, 903 F.2d at 1228. Second, HB 454 as initially introduced contained no reductions or amendments to the GABA.[4] SUF ¶ 36. That version of the bill, in one year, brought PERS within 6.7 years of being considered actuarially sound under Montana law. *Id.* The State merely had to adopt the introduced version of HB 454, unamended. There would have been no contract violation and PERS would have amortized in a short period.

Third, while HB 454 fails to contain a provision allowing the GABA to be increased back to 3%, HB 454 contains a provision that provides for the employer increase of 1% to end once the PERS fund reaches a level where removing the increase would not cause the amortization period to exceed 25 years. 2013 Mont. Laws Ch. 390, § 4. Prior to this Court granting the preliminary injunction, the June 30, 2013 actuarial valuation showed the employer increase ending in 2015. SUF Ex. 7. A third reasonable alternative to impairing employee and retiree contracts would have been to keep the increased employer contribution to PERS indefinitely or to have increased the employer contribution more than 1% of payroll.

Montana has managed to keep healthy reserves following the market decline in 2008. The same Legislature that reduced the GABA increased general fund spending over the next

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[4] The amendment to HB 454 reducing the GABA in committee was never subject to a public hearing in either the House or Senate.

biennium by approximately 13%, and as of June 30, 2013, the State's budget surplus was estimated to be $504 million dollars. SUF ¶ 47, Ex. 15. The Governor's Budget Director, Dan Villa, recently provided deposition testimony that "[t]he certified ending fund balance, unaudited General Fund balance at June 30, 2013 was $560,813,646.30." SUF at ¶ 47, Ex. 16. As shown by these healthy reserves, the State was not in dire financial condition necessitating the drastic reduction in the GABA. A fourth alternative option available rather than decreasing the GABA would have been to use a portion of these reserves to a large lump sum one-time-only contribution to PERS.

The State has numerous trust accounts such as the Coal Severance Tax trust fund, the Montana Tobacco Settlement trust fund, and the Big Sky Economic Development trust fund. As of 2013 fiscal year end, the State's trust funds collectively had a balance of almost $2 billion dollars. SUF ¶ 47, Ex. 15. Rather than reducing the GABA, a fifth alternative would have been to use some of these funds to infuse dollars into PERS until it became actuarially sound. Moreover, the Association of Montana Retired Public Employees, through HB 632 to the 2011 Legislature and again as HB 382 to the 2013 Legislature proposed diverting the unallocated portions of the Coal Severance Tax to the PERS. SUF ¶¶ 33, 35. That was rejected by those Legislatures.

A sixth alternative to reducing the GABA would have been to increase revenue through taxes. This alternative was addressed in *U. of Hawaii Prof. Assembly,* 183 F.3d at 1107, and while politically unpopular, it is nonetheless a less-impairing alternative that would not run afoul of the State's contractual obligations to its Retirees. At least six alternatives were available to the State in addressing the actuarial soundness of PERS rather than impairing the State's contractual obligations with its employees and retired employees. This list of alternatives is non-exhaustive and other alternatives were also likely available. It is the State's burden to show that no reasonable less-impairing alternatives existed – a burden they cannot meet in this case. Given the availability of alternatives to contract impairment, enactment of Section 5 of HB 454 was unreasonable and unnecessary.

D. Section 5 of HB454 Constitutes an Unconstitutional Taking.

As explained above, pensions are contracts in Montana and are a protected property right pursuant to Mont. Const. Art. II, § 29: Section 5 of HB 454 results in an unconstitutional regulatory taking by unnecessarily and unreasonably taking away a benefit earned by PERS retirees and members through their public employment and service to the State of Montana. The State's reducing the GABA benefit with no compensation whatsoever for the reduction in this benefit should be held an unconstitutional taking. Retirees' recognize this Court's December 20, 2013 order granting a preliminary injunction required ongoing payment of the GABA, thus no compensation is currently owed. C.D. #28. However, as the preliminary injunction is not permanent, this Court should hold that not only does Section 5 of HB 454 violate the Contract Clause, but also violates Mont. Const. Art. II, § 29, in granting declaratory relief and making the injunction permanent.

III. Attorneys' fees should be awarded to the Retirees.

The Retirees should be awarded attorneys' fees. Several grounds exist for an award of fees. First, an award of fees is necessary and proper in this case for relief granted under the Uniform Declaratory Judgments Act. *See Trustees of Ind. Univ. v. Buxbaum*, 2003 MT 97, ¶¶ 32-46, 315 Mont. 210, 69 P.3d 663 (holding attorneys' fees may be awarded in UDJA claim pursuant to Mont. Code Ann. § 27-8-313). Second, attorneys' fees should be awarded as a result of the unconstitutional taking of private property. *See e.g., Galt v. State*, 230 Mont. 327, 749 P.2d 1089, 1091-94 (1988) (holding Mont. Const. Art. II, § 29 may apply to declaratory judgment actions, and that fees may be awarded for a law that results in a taking if there is: 1) a taking of private property for public use; 2) litigation; and 3) the private property owner prevails). Third, Governor Bullock's actions in signing Section 5 of HB 454 into law, knowing that it was "likely unconstitutional" and admitting support for legal challenges to the bill (SUF ¶¶ 41-42) justifies an award of fees pursuant to 42 U.S.C. §1988. *See Hensley v. Eckerhardt*, 461 U.S. 424, 429; *Ihler v. Chisholm*, 2000 MT 37, ¶ 25, 298 Mont. 254, 995 P.2d 439.

CONCLUSION

For the reasons stated herein, the Retirees' motion for summary judgment should be granted.

DATED this 5th day of September, 2014.

BROWNING, KALECZYC, BERRY & HOVEN, P.C.

By ______________________
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Jessie L. Luther

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of September, 2014, a true copy of the foregoing was mailed by first-class mail, postage prepaid, addressed as follows:

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MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

ASSOCIATION OF MONTANA RETIRED PUBLIC EMPLOYEES, RUSSELL WRIGG, MARLYS HURLBERT, CAROLE CAREY, I. EDWARD SONDENO, Plaintiffs, v. STATE OF MONTANA, MONTANA PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION, PUBLIC EMPLOYEE RETIREMENT BOARD, GOVERNOR STEVE BULLOCK, in his official capacity, Defendants.	Case No. DDV-2013-788 **PLAINTIFFS' STATEMENT OF UNDISPUTED FACTS**

PLAINTIFFS Association of Montana Retired Public Employees, Russell Wrigg, Marlys Hurlbert, Carole Carey, and I. Edward Sondeno ("Retirees") submit this Statement of Undisputed Facts in support of Retirees' motion for summary judgment and state:

PROCEDURAL HISTORY

1. On October 30, 2013, Retirees filed this action in the First Judicial District Court

in Lewis and Clark County, Montana. *See* Complaint (C.D. # 1)[1].

2. The Complaint seeks a declaratory judgment pursuant to Mont. Code Ann. § 27-8-101 that Retirees' constitutional rights were affected adversely and unlawfully by enactment of Section 5 of House Bill 454 (Sec. 5, Chapter 390, Laws of Montana 2013) ("HB 454") reducing the Guaranteed Annual Benefit Adjustment ("GABA"). C.D. # 1, ¶¶ 61–66.

3. The Complaint alleges several counts against the State, but most importantly for this Motion, seeks an order declaring that enactment of Section 5 of HB 454 is an unconstitutional impairment of the Retirees' contracts in violation of the Montana Constitution's and the United States' Constitution's Contract Clause. Mont. Const. Art. II, § 31; U.S. Const. Art. I, Sec. 10; C.D. # 1, ¶¶ 67–82.

4. Also on October 30, 2013, Retirees filed their Motion for Preliminary Injunction (C.D. # 2) and the Brief in Support (C.D. # 3).

5. Defendants State of Montana, Montana Public Employee Retirement Administration, Public Employee Retirement Board, and Governor Steve Bullock, in his official capacity (the "State") filed their Response Brief in Opposition to Retirees' Motion for Preliminary Injunction on November 18, 2013 (C.D. # 18).

6. Retirees filed their Reply Brief in Support of Their Motion for Preliminary Injunction on December 2, 2013 (C.D. # 19).

7. The State filed a Notice of Supplemental Authority (C.D. # 21) on December 12, 2013. Retirees responded to the State's Supplemental Authority (C.D. # 25) on December 18, 2013.

8. The hearing on the Retirees' Motion for Preliminary Injunction was held on December 12, 2013. The Honorable James P. Reynolds issued an Order Granting Preliminary Injunction preventing the State from implementing the GABA reduction provision contained in Section 5 of HB 454 (C.D. # 28) on December 20, 2013.

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[1] Reference in this Statement of Undisputed Facts to "C.D. #__" refer the Court to the Court's docket and corresponding document listed in the docket sheet.

9. The State filed its Answer (C.D. # 29) on December 20, 2013.

STATEMENT OF UNDISPUTED MATERIAL FACTS

10. The 1945 Montana Legislature enacted the Public Employees Retirement Law creating a defined benefit plan for public employees effective July 1, 1945. Mont. Code Ann. § 19-3-103.

11. The Public Employee Retirement System ("PERS")[2] provides retirement, disability and death benefits to its members and is administered by the Public Employees Retirement Board ("PERB"). Mont. Const. Art. VIII, § 15; Mont. Code Ann. § 19-2-403.

12. PERB has a duty to "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 . . . that may be necessary for members and their beneficiaries to maintain a stable standard of living." Mont. Code Ann. § 19-2-403(11) (emphasis added).

13. The PERS defined benefit plan is a qualified plan under Internal Revenue Code Section 401(a), and a member's monthly benefit is calculated based on his or her total years of service credit and highest average compensation, rather than the account balance or the performance of the financial markets. *See* Mont. Code Ann. Title 19, Chapter 3, parts 9, 10, 12, 15 and 16.

14. As of October 2013, PERS has approximately 28,401 active members and 19,451 retired, disabled or survivor members. Aff. Patricia Davis ¶ 3 (Oct. 18, 2013); Aff. Michael O'Connor ¶ 3 (Oct. 30, 2013), attached hereto and incorporated herein as Exhibits 1 and 2, respectively.

15. PERS members include employees and retirees of the State of Montana, its university system or any of the colleges, schools, components, or units of the university system and any municipal corporation, county or public agency who contracts with PERB for provision of a retirement system. Mont. Code Ann. Title 19, parts 2–3.

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[2] For purposes of this Statement of Undisputed Facts and Brief in Support of Plaintiffs' Motion for Summary Judgment, "PERS" refers to the PERS defined benefit plan, unless it is specifically stated otherwise.

16. An employee is required to become a member of the PERS defined benefit plan on the first day of service unless the employee opts to become a member of the PERS defined contribution plan. Mont. Code Ann. § 19-3-401.

17. Retirement "[b]enefits and refunds to eligible recipients are payable pursuant to a contract as contained in statute. The contract is entered into on the first day of a member's covered employment and may be *enhanced* by the legislature. Unless specifically provided for in statute, the contract does not contain revisions to statutes after the time of retirement or termination of membership." Mont. Code Ann. § 19-2-502(2) (emphasis added).

18. Employees are statutorily required to contribute a percentage of their pay to PERS, as are employers. *Id.* at §§ 19-3-315, 19-3-316.

19. Retirement benefits vest after five years of membership service. *Id.* at § 19-2-303(55).

20. Under the "one for five" service credit purchase option, PERS members with at least five years of membership may purchase one year of additional service credit for each five years of membership service. *Id.* at § 19-3-513. When making service credit purchases, the member is required to "pay the actuarial cost of the service credit, based on the system's most recent actuarial valuation." *Id.* The actuarial cost of service credit includes the cost of GABA. Retirees who purchased service credit after July 1, 2001 paid the full actuarial cost of a 3% GABA.[3]

21. Generally, members with a minimum of 30 years of service, or that have reached age 60 and have five years of membership service, or members who have reached age 65 regardless of years of service are eligible to retire.[4] *Id.* at § 19-3-901.

22. Members with less than 25 years of service are eligible to receive a retirement

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[3] PERS members may also purchase military service credit, service from previous employment with the employer, service from federal employment, service from the teachers' retirement system or other public retirement systems, or service as a volunteer in a United States service program. Mont. Code Ann. §§19-3-503, 19-3-505, 19-3-510, 19-3-511, 19-3-512, 19-3-513. *See also* Aff. Michael O'Connor at ¶¶ 10-11 (Exh. 2).

[4] PERS retirement benefits are determined and paid pursuant to Montana Code Annotated Title 19, Chapter 3, parts 9, 10, 12, 15 and 16.

benefit of the greater of one fifty-sixth of the highest average compensation[5] multiplied by the total service credit or "the actuarial equivalent of double the member's accumulated contributions" along with application of an early retirement factor. *Id.* at § 19-3-904.

23. Members with 25 or more years of service are eligible to receive a retirement benefit of "the greater of 2% of the member's highest average compensation multiplied by the number of years of the member's total service credit" or "the actuarial equivalent of double the member's accumulated contributions". *Id.*

24. The 1997 Legislature established the post-retirement 1.5% GABA to increase PERS retirement benefits annually to maintain a stable standard of living for retirees in HB 170. 1997 Mont. Laws Ch. 287, attached hereto and incorporated herein as Exhibit 3.

25. The legislative intent of HB 170 clearly applied the GABA to not only existing employees but also retirees in its Statement of Intent "to guarantee a minimum level of annual benefit increases for retired members and their contingent annuitants or survivors under each of the statewide public employee retirement systems [including PERS, and] . . . to address the erosion of retirement benefits caused by inflation." *Id.* at p. 1338.

26. HB 170's Statement of Intent provided that "the GABA be substituted for other benefits in cases in which the GABA is as valuable or more valuable to members." *Id.* at p. 1338, Defs.' Resp. to Plts.' Request for Admission No. 24, attached hereto as Exhibit 4; Aff. Michael O'Connor at ¶¶ 10-11. This reflects the well recognized rule of pension law that you cannot decrease a pension benefit without a corresponding increase in benefits elsewhere. *See e.g., Betts v. Board of Administration of Public Employees' Retirement System*, 21 Cal.3d 859, 863, 582 P.2d 614, 617 (1978); *State of Nev. Employees' Ass'n v. Keating*, 903 F.2d 1223, 1227 (9th Cir. 1990). On January 1 of each year, the GABA is calculated by increasing the monthly benefit payable to a recipient the preceding January by a specific percentage. Mont. Code Ann. § 19-3-1605.

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[5] The highest average compensation is the average of the highest three consecutive years of earned compensation for employees hired prior to July 1, 2011. The highest average compensation for employees hired on or after July 1, 2011 is the average of the highest five consecutive years of earned compensation. Mont. Code Ann. § 19-3-108.

27. The 2000 PERS actuarial valuation reported a system surplus of over $569 million and funded ratio of 125%. The 2001 Legislature then enacted HB 294 to increase the GABA to 3% annually for all PERS retirees and members. Exhibit 2 at Ex. E; 2001 Mont. Laws Ch. 149, attached hereto and incorporated herein as Exhibit 5.

28. When the initial GABA was created in 1997, among other things, the cost of certain service credits was altered so that employees were required to contribute the "actuarial cost of the service credit based on the most recent actuarial value of the *See* 1997 Mont. Laws Ch. 287 at p.1343 (Exh. 3); Aff. Michael O'Connor at ¶¶ 10-11 (Exh. 2). In 2001, when the Legislature increased the GABA to 3%, it also altered the definition of "actuarial equivalent" from reliance on a 1971 Group Annuity Mortality Table to "mortality table and interest rate assumptions adopted by the Board." *See* HB 294, 2001 Mont. Laws Ch. 149 at p. 697 (Exh. 5).

29. In 2007, the Legislature enacted HB 131, setting the GABA for new hires beginning employment on or after July 1, 2007 at 1.5%. 2007 Mont. Laws Ch. 371, attached hereto and incorporated herein as Exhibit 6.

30. The June 30, 2012 PERS actuarial valuation reported the system's unfunded actuarial liability to be $1.8 billion, and the system's funded ratio was 67%. Cheiron, *Public Employees' Retirement System of the State of Montana*, Actuarial Valuation as of June 30, 2012, pp. 1, 8, 18, 27 (MPERA Sept. 2012), attached hereto and incorporated herein as Exhibit 7.

31. The Montana Constitution requires public employee retirement systems to be funded on an actuarially sound basis, but does not set any specified timeframe to amortize. Mont. Const. Art. VIII, § 15.

32. PERS is statutorily required to amortize unfunded accrued actuarial liability in 30 years or less to be considered actuarially sound (Mont. Code Ann. § 19-2-409), and as of June 30, 2012, PERS's unfunded actuarial liability did not amortize within 30 years. *Id.* at pp. 8, 21.

33. Prior to 2013 efforts to fix PERS, such as HB 632 which increased funding, were introduced, but were never passed by the Legislature.

34. The 2013 Montana Legislature considered several legislative proposals addressing

the retirement systems, including HB 454, to "fix" PERS. HB 454 was the only bill to become law. Chapter 390 Laws of Montana.

35. The Association of Montana Retired Public Employees proposed HB 382 (attached as Exhibit 8) during the 2013 Legislative Session to offer additional funding options for PERS, but the bill did not pass.

36. HB 454 as originally introduced did not reduce or amend the GABA, and the fiscal note reported that PERS would amortize in 36.7 years in 2014, and be actuarially sound, amortizing in less than 30 years by 2019. Mont. Leg. Fiscal Note HB0454.01, actuarial table, 63d Leg. 1st Reg. Sess. (Feb. 19, 2013), attached hereto and incorporated herein as Exhibit 10.

37. HB 454 was amended extensively in the legislative process. Amendment HB045420.asc, significantly and unnecessarily reduced the GABA and was adopted by the Senate Finance and Claims Committee on April 16, 2013. Mont. Sen. Amd. HB045420.asc 63d Leg., 1st Reg. Sess. (April 16, 2013), attached hereto and incorporated herein as Exhibit 11.

38. This amendment reducing the GABA is Section 5 of the enacted version of HB 454 which permanently reduces the GABA for PERS retirees and employees hired prior to July 1, 2007, from 3% to 1.5%, cutting the GABA in half for these individuals. *Id.*

39. HB 454 further diminishes the GABA for all retirees and employees by the following formula:

> . . . if the most recent actuarial valuation of the retirement system shows that retirement system liabilities are less than 90% funded, the applicable percentage rate [of GABA] must be reduced by 0.1% for each 2% below that 90% funding level. (b) If the amortization period is 40 years or greater, the applicable percentage rate is 0% and the retirement allowance may not be increased. Section 5, HB 454.

40. HB 454 was passed out of the Senate Finance and Claims Committee with the GABA-reducing amendment on April 16, 2013. The Senate Committee of the Whole passed HB 454 as amended on April 18, 2013, the House of Representatives accepted the changes on April 22, 2013, and the bill was transmitted to Governor Bullock on April 26, 2013.

41. After HB 454 was delivered to the Governor for signature, Plaintiff Russell

Wrigg, president of the Association of Montana Retired Public Employees sent the letter attached as Exhibit 12, to the Governor asking that he veto the bill.

42. Governor Bullock responded by letter dated May 14, 2013 (attached as Exhibit 13) noting that the amendment to HB 454 that reduced the GABA was "likely unconstitutional" and that he supported Montana public employees and supported legal challenges to the GABA reduction.

43. The June 30, 2013 actuarial valuation of PERS projected the funded ratio of PERS to increase from 67% to 80%. Cheiron PowerPoint presentation, *Public Employees' Retirement Board*, Actuarial Valuations as of June 30, 2013, p. 16 (MPERA Oct. 10, 2013), attached hereto and incorporated herein as Exhibit 14.

44. It was projected that the GABA would further be reduced to 1.0% as of January 1, 2014. *Id.* at p. 18. This Court's Order Granting Preliminary Injunction prevented this reduction in the GABA.

45. The valuation projected that with a 1.0% GABA, PERS would immediately become actuarially sound by amortizing in 14.5 years. *Id.* at p. 17.

46. The State had several alternatives to improve the financial health of PERS without reducing the GABA. The State could have passed HB 454 in its original form without a GABA reduction. The State could have enacted legislation addressing the financial health of PERS in a prior session such as HB 632 during the 2011 legislative session. The State could have made additional contributions to PERS through HB 382 during the 2013 legislative session, by transferring a portion of the unencumbered General Fund ending fund balance to PERS, or by increasing taxes to fund PERS. The amortization period could have been extended beyond 30 years.

47. At the end of the 2013 fiscal year, the State had a healthy ending fund balance from which it could have made contributions to PERS. The general fund balance of $542.6 million, less the statutorily 1% of all general fund appropriations required to not be spent resulted in an estimated ending fund balance of $504 million for the end of fiscal year 2013. Aff. Terry

Johnson (Oct. 30, 2013), attached hereto as Exhibit 15. This was a low estimate given that "[t]he certified ending fund balance, unaudited General Fund balance at June 30, 2013 was $560,813,646.30." Deposition of Governor's Budget Director Dan Villa at 12:1 – 3 (July 8, 2014), attached hereto as Exhibit 16. Furthermore it is beyond dispute that market conditions have improved substantially since 2008 and are still rising.

EFFECT ON PUBLIC RETIREES

48. To illustrate the importance of the GABA in providing retirees a stable standard of living, the average PERS retiree that retired in 2012 at age 59.3 after 19.8 years of service earned a monthly benefit of $1,159 in the first year of retirement. Exhibit 2 at ¶ 15, Exs. C & D. The life expectancy for the average retiree following retirement is approximately 25 years. After 25 years of retirement, the average PERS retiree's monthly benefit would grow to $2,356 with a 3% GABA. *Id.*

49. If the GABA is reduced to 1.5%, after 25 years of retirement, the monthly benefit would be $1,657, and the retiree would lose $88,959 in retirement benefits over the course of the 25 years of retirement. *Id.* at Ex. C. That amount would necessarily be more if the retiree lived longer than 25 years after retirement.

50. If the GABA is reduced to 1%, the monthly benefit would be $1,472, and the retiree loses $114,269 over 25 years of retirement. *Id.* at Ex. D. That amount would necessarily be more if the retiree lived longer than 25 years after retirement.

51. The GABA is particularly important to those already retired. If the average person retired in 1997 at age 60.1 after 18.5 years of service, he or she would have received an initial monthly benefit of $537. *Id.* at ¶ 14, Exs. A & B.

52. With the implementation of the 1.5% GABA for the years 1998 through 2001 and the 3% GABA from 2002 to 2013, the monthly retirement benefit in 2013 has increased to $813 solely from the GABA. *Id.*

53. During that same time period, if the GABA had stayed at 1.5%, the monthly

benefit would have only increased to $681, costing the retiree $9,446 in GABA increases. *Id.* at Ex. A.

54. If the GABA had only been 1% from 1997 to 2013, the monthly benefit would only have increased to $630 and the retiree would not have received $14,412 of benefits. *Id.* at Ex. B.

55. These numbers are significant considering the 2013 Poverty Guidelines set the federal poverty level for a single person at a monthly income of $957.50. CMS 2013 Poverty Guidelines available at: http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Eligibility/Downloads/2013-Federal-Poverty-level-charts.pdf, attached hereto and incorporated herein as Exhibit 17.

56. Even receiving a 1.5% GABA from 1998 through 2001 and a 3% GABA from 2002 to 2013, the average person that retired in 1997 is living under the federal poverty level with their current monthly retirement benefit of $813. Exhibit 2 at Exs. A & B.

57. Plaintiff Carole Carey was very familiar with the GABA from her time serving on the PERB, during which the GABA was developed. She specifically relied on the 3% GABA when making her decision to retire because she and her husband were living on one income. Going back to work is not an option for Mrs. Carey due to her age, and she is concerned that her PERS retirement will be insufficient to live on without the 3% GABA in ten years. Aff. Carole Carey (Oct. 10, 2013), attached hereto as Exhibit 18; Defs.' Resp. to Plts.' Request for Admission No. 30, attached hereto as Exhibit 19.

58. Plaintiff Marlys Hurlbert retired after working for the State for 33 years. Ms. Hurlbert has been forced to get a part time job at a local restaurant and casino to supplement her PERS retirement income. She is unable to work full time due to medical issues and relies on the 3% GABA to help pay the costs of health care and daily living. Aff. Marlys Hurlbert (Oct. 21, 2013), attached hereto as Exhibit 20; Defs.' Resp. to Plts.' Request for Admission No. 29, attached hereto as Exhibit 21.

59. Plaintiff I. Edward Sondeno worked for over 30 years in Montana public service. He researched and analyzed his retirement options, deciding to consolidate all of his years of service into PERS. This consolidation required him to repurchase several years of service credit, and he also purchased one-for-five service credit. Mr. Sondeno's purchase price of $326,204 for these categories of service credit was based on receiving a 3% GABA throughout his retirement. Mr. Sondeno specifically and purposefully considered the costs involved in making these transfers and purchases and the effect of a 3% GABA on his projected retirement income as well as the inflating costs of health coverage. Without the 3% GABA in his retirement plan analysis, Mr. Sondeno would have continued working and retired later. Aff. I. Edward Sondeno (Oct. 28, 2013), attached hereto as Exhibit 22; Defs.' Resp. to Plts.' Request for Admission No. 28, attached hereto as Exhibit 23.

60. At various times from 2001 to 2013 Defendant MPERA informed PERS members and retirees that were employed prior to June 30, 2007 that they would received a 3% GABA. Defs.' Resp. to Plts.' Request for Admission Nos. 14 and 15, attached hereto as Exhibit 24.

61. In response to Plaintiffs' Request for Production Nos. 15 and 16, the State produced several documents, including copies of handbooks, workbooks, newsletters, PowerPoint presentations, and letters showing it repeatedly told PERS members and retirees that they would receive the GABA increase each year. Defs.' Resp. to Plts.' Request for Production Nos. 15 and 16, attached hereto as Exhibit 25. Examples of the statements from these documents follow.

a. "The GABA insures an increase of three percent over the previous year." Montana Public Employees' Retirement System Member Handbook, pp 50-51 (Oct. 2001); The Choice is Yours, the Time is Now, Workbook, p. 14;

b. "The Guaranteed Annual Benefit Adjustment (GABA) will increase your retirement benefit every year **if you are eligible**. The GABA insures an increase of three percent over the previous year." Montana Public Employees' Retirement System Member Handbook, p. 51 (July 2004) (emphasis in original); *see also*

Montana Public Employees' Retirement System Member Handbook, p. 51 (July 2008).

c. "The GABA ensures a 3% increase in your benefit checks from the previous year. . . . The GABA is **not** tied to inflation, but gives you and your family some inflation protection!" Montana PERS Companion Booklet – DBRP and DCRP retirement plan choice p. 40-41, ver. 2/20/02 (emphasis in original).

d. "Defined Benefit Retirement Plan Guarantees: Guaranteed Lifetime Retirement Income; GABA". MPERA, "The Choice is Yours…The Time is Now!" Employee Workshop Montana Public Employees' Retirement System PowerPoint presentation slide 13 (undated); MPERA "PERS Steps to Retirement" PowerPoint presentation slide 9. (undated); MPERA "The Choice is Yours…The Time is Now!" Employee Workshop Montana Public Employees' Retirement System PowerPoint presentation slide 12 (undated).

e. "The GABA ensures a 3% increase in your benefit from the previous year." New PERS Member Information, defined benefit plan basics, p. 8.

f. "YOUR RETIREMENT BENEFITS ARE A PROTECTED CONTRACT RIGHT. PROPOSED BENEFIT CHANGES WILL BE FOR NEW MEMBERS ONLY." MPERA Directions for Active Members, Employers and Legislators newsletter p. 1 (Jan. 2007) (all caps and emphasis in original).

g. "You will receive your gross monthly retirement benefit for your lifetime. This benefit will increase by 3% each January after you have been retired for one year, in accordance with the Guaranteed Annual Benefit Adjustment (GABA)." Form letters F:\RETIREES\Overlays\Overlay_OPT 1 FinalBenefitLetterALL.doc REV 32007; F:\RETIREES\Overlays\Overlay_OPT 2 FinalBenefitLetterALL.doc REV 32007; F:\RETIREES\Overlays\Overlay_OPT 3 FinalBenefitLetterALL.doc REV 32007. This language also appears in a 2009 letter from MPERA to a recently retired PERS member. Aff. Steve Garrison, at Ex. A (Sept. 4, 2014), attached hereto as Exhibit 26.

62. PERS members also received a "Defined Benefit Retirement Plan Annual Statement" from Defendant PERB each year which provided each individual's retirement plan information. At some point in the late 1990s, the annual statements began including the amount of contributions to PERS, the value of the lifetime retirement benefit, and the value of the initial monthly benefit the individual would receive if they continued to contribute to their retirement. The Annual Statement also provided specific information regarding each individual's service credit for employment, service credit purchased or transferred, and service credit purchases in progress (including one for five service credit purchases). The Annual Statement repeated the State's promise to pay the 3% GABA. Aff. Mike O'Connor, at Ex. A (Sept. 4, 2014), attached hereto as Exhibit 27.

63. The June 30, 2005 Annual Statement provided: "The lifetime benefit is equal to the benefit you will receive over an average lifetime, including a 3% annual benefit increase allowed by statute. ** . . . ** *Note: The salary used to calculate future contributions and benefits assumes a 1.5% annual salary increase. Lifetime benefit values include the 3% guaranteed annual benefit adjustment (GABA) paid each January after you have been retired for 1 year. . . .* **Your benefit will not be adversely affected by unfavorable investment returns. PERS – not you – assumes the investment risk.**" *Id.* (emphasis in original).

64. Other facts pertinent to Retirees' Motion are included in the accompanying brief.

DATED this 5th day of September, 2014.

BROWNING, KALECZYC, BERRY & HOVEN, P.C.

By ______________________________
Leo Berry
Chad E. Adams
Jessie L. Luther

Attorneys for Plaintiffs

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CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of September 2014 a true copy of the foregoing was mailed by first-class mail, postage prepaid, addressed as follows:

Timothy C. Fox
Michael G. Black
J. Stuart Segrest
Montana Attorney General
P.O. Box 201401
Helena, MT 59620-1401

BROWNING, KALECZYC, BERRY & HOVEN, P.C.

AFFIDAVIT OF
PATRICIA J. DAVIS

STATE OF MONTANA)
: ss.
County of Lewis & Clark)

The undersigned, Patricia J. Davis, under oath, does hereby swear or affirm:

1. I am the Member Services Bureau Chief of the Montana Public Employee Retirement Administration. I have held this position for three years.

2. My general duties include administration of retirement benefit calculations for the defined benefit public employee retirement systems, including the Public Employee Retirement System ("PERS"), administration of the defined contribution system, and deferred compensation plans, and other duties as assigned.

3. There are currently approximately 28,401 active members of PERS, approximately 19,451 retired, disabled and survivors receiving PERS benefits, and an estimated 3,000 new hires each fiscal year that will become members of PERS.

4. Following enactment of HB 454, and it becoming effective July 1, 2013, MPERA employees have been taking steps to implement the changes to the retirement systems contained in HB 454, including and specifically the reduction in the Guaranteed Annual Benefit Adjustment ("GABA").

5. PERS New Member Handbooks are in the process of being updated, as is the PERS Defined Benefit handbook. The handbooks contain information describing the benefits accorded members. This information must necessarily be accurate in order to properly inform members. This information will reflect the changes to the GABA made by HB 454.

6. The materials used in the education of active employees regarding PERS have been updated.

7. The Defined Benefit/Defined Contribution Plan Choice documents are currently being updated, and have been updated in the versions that appear on the MPERA website.

EXHIBIT
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8. Other actions that are in the process of being taken and which must be completed by December 31, 2013 include the following.

9. There will need to be language changes on the annual statements that provide active members snapshots of their account balance and contributions.

10. A retiree newsletter will be sent to all retired PERS members in December 2013 that will describe the reduction in the GABA to 1% based upon the most recent actuarial valuation of PERS.

11. A notice will be sent to all PERS retirees notifying them that their benefit will change and on January 1, 2014 their GABA will be reduced from 3% to 1%.

12. A reduced GABA rate will also impact members' service purchases, early retirement factors and single life annuity calculations. There will be changes to the benefit calculators, the web self-service calculator, application forms and member communications related to all these areas.

13. MPERA will have to pay for the printing of sufficient quantities of education materials, new hire handbooks, as well was the correspondence to retirees regarding the HB 454 reductions to GABA. Due to the quantity of printed copies, the expense of producing these documents as well as staff time spent will be substantial.

///

Further Affiant Sayeth Not.

DATED this 18th day of October, 2013.

By Patricia J. Davis
Patricia J. Davis

On this 18th day of October 2013, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared Patricia Davis known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same.

In witness whereof, I have hereunto set my hand and affixed my notarial seal on the day and year first above written.

Jennifer Harnden
NOTARY PUBLIC FOR THE STATE OF MONTANA
Printed Name: Jennifer Harnden
Residing at: Helena MT
My Commission Expires 3/1/16

(Notarial Seal)

JENNIFER HARNDEN
NOTARY PUBLIC for the
State of Montana
Residing at Helena, Montana
My Commission Expires
March 01, 2016

L&C Co

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AFFIDAVIT OF
MICHAEL (MIKE) O'CONNOR

STATE OF MONTANA)
: ss.
County of Lewis & Clark)

The undersigned, under oath, does hereby swear or affirm:

1. My name is Mike O'Connor. I reside at 661 N. Warren, Helena, Montana.

2. I worked for the Montana Public Employee Retirement Administration (MPERA) from 1979 to 2005. MPERA administers the Montana Public Employees Retirement System (PERS). PERS was created in 1945 in order to attract and retain employees in the public sector, and to provide for an adequate retirement for public employees. MPERA is attached to the Montana Department of Administration for administrative purposes, and is administered by the Montana Public Employees Retirement Board. The Montana Public Employees Retirement Board is comprised of seven (7) individuals appointed by the Governor. I held various positions within the MPERA, and from 1996 to 2005, I was the Executive Director, which is the lead Administrative Officer for MPERA.

3. The PERS system applies to certain state, county and city employees. It consists of 28,401 active employees and 19,451 retirees as of June 30, 2013.

4. During my time with MPERA, I was active in the development of legislation, which was presented to the legislature for consideration.

5. The Board must approve all legislation presented to the legislature, and determines what position the MPERA might take on various other pieces of legislation affecting the Montana Public Employee Retirement System.

EXHIBIT
2

6. I was employed by MPERA in 1997 as Acting Administrator and participated in the development of the Guaranteed Annual Benefit Adjustment (GABA) that was presented to the Montana Legislature for consideration.

7. Prior to the 1997 session, there were bills introduced in many sessions which provided ad hoc benefit increases in retirement payments made to public employee retirees.

8. The Board and the MPERA decided that a more appropriate method of addressing increases of retirement benefits was to provide a comprehensive piece of legislation rather than consecutive ad hoc increases in benefits. As a result, the Board requested that legislation be drafted for presentation to the 1997 session, which would comprehensively address the issue of retirement benefits and the effect of inflation on them.

9. The resulting legislation was HB170, which established an annual benefit increase of 1.5% per year; it applied that increase to all retirees, including all those who retired prior to 1997.

10. The increases in benefits in 1997 were "paid for" by increasing contribution rates by employees .2%, and by decreasing other benefits that public employees and public employee retirees had by law. In essence, some of the pre-1997 PERS benefits were reduced or eliminated and employee contributions were increased, but concurrently benefits were increased by providing the 1.5% GABA.

11. For example members were required to pay the full "actuarial cost" to purchase military service. Actuarial cost of purchasing service is based on your current salary, age and years of service. If a member age 60 with 25 years of service with an annual salary of $71,701 is wishing to purchase 5 years of military service than they would be required to pay $85,181 for the service. Prior to July 1, 1997 the cost to purchase the same service would be based on

the members 11th, 12th, 13th, 14th, & 15th years salary times the employee & employer contribution rate. The cost to purchase the same military service under the old method would be $32, 967.

12. The name provided for the increased benefits in HB 170 was specifically and carefully chosen. It was not called a Cost of Living Adjustment (COLA). It specifically was called a Guaranteed Annual Benefit Adjustment, indicating an intent that the increases were guaranteed over the life of the retiree.

13. I have prepared the attached charts based upon an average retiree who retires at the average age after the average years of service as reported in the most recent actuarial valuation.

Exhibit A: Public Employees Retirement System Average Retiree cost of GABA Reduction from 3.0% to 1.5% from 1996 to 2020.

Exhibit B: Public Employees Retirement System Average Retiree cost of GABA Reduction from 3.0% to 1.0% from 1996 to 2020.

Exhibit C: Public Employees Retirement System Average Retiree cost of GABA Reduction from 3.0% to 1.5% from 2012 to 2036.

Exhibit D: Public Employees Retirement System Average Retiree cost of GABA Reduction from 3.0% to 1.0% from 2012 to 2036.

14. Exhibits A and B are based upon the average person who retired in 1996 at age 60.1 after 18.5 years of service. These Exhibits provide comparisons of the monthly retirement benefits beginning in 1996, first with a 1.5% GABA from 1998 through 2001 increasing to a 3% GABA in 2002 versus a 1.0% GABA from 1998 forward, and show the total amount of retirement benefits an individual would lose under a reduced GABA.

15. Exhibits C and D are based upon the average person who retired in 2012 at age 59.3 after 19.8 years of service. These Exhibits illustrate what the GABA reduction means in

dollars to monthly retirement benefits. These Exhibits provide comparisons of the monthly retirement benefits with a 3% GABA versus a 1.5% or 1.0% GABA from 2012 forward, and show the total amount of retirement benefits an individual would lose under a reduced GABA.

16. I have also prepared a summary of data from historical actuarial valuations of PERS, including the actuarial accrued liability, actuarial value of assets, unfunded actuarial accrued liability (or surplus) and the funded ratio from 1992 through 2013. This summary chart is attached hereto as **Exhibit E.**

Further Affiant Sayeth Naught.

DATED this 30 day of October, 2013.

By ______________________
Michael O'Connor

On this 30th day of October 2013, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared Michael O'Connor known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same.

In witness whereof, I have hereunto set my hand and affixed my notarial seal on the day and year first above written.

AMBER G. CARLSON
NOTARY PUBLIC for the
State of Montana
Residing at Helena, Montana
My Commission Expires
August 28, 2016

(Notarial Seal)

____
NOTARY PUBLIC FOR THE STATE OF MONTANA
Printed Name: ______________________
Residing at: ______________________
My Commission Expires ______________________

Public Employees Retirement System
Average Retiree cost of GABA Reduction from 3.0% to 1.5%

Average Age* **60.1**
Average Years of Service* **18.5**
Average Monthly Benefit* **$537**
***Source June 30, 1996 Actuarial Valuation**

	Year	Monthly Benefit-GABA 1998 - 2001 @ 1.5% 2002 - forward @ 3%	Annual Gross Benefits	Monthly Benefit-GABA @ 1.5%	Annual Gross Benefits	Annual Cost of Reducing GABA to 1.5%
1	1996	$537	$6,444	$537	$6,444	$-
2	1997	$537	$6,444	$537	$6,444	$-
3	1998	$545	$6,541	$545	$6,541	$-
4	1999	$553	$6,639	$553	$6,639	$-
5	2000	$562	$6,738	$562	$6,738	$-
6	2001	$570	$6,839	$570	$6,839	$-
7	2002	$587	$7,045	$579	$6,942	$(103)
8	2003	$605	$7,256	$587	$7,046	$(210)
9	2004	$623	$7,474	$596	$7,152	$(322)
10	2005	$641	$7,698	$605	$7,259	$(439)
11	2006	$661	$7,929	$614	$7,368	$(561)
12	2007	$681	$8,167	$623	$7,479	$(688)
13	2008	$701	$8,412	$633	$7,591	$(821)
14	2009	$722	$8,664	$642	$7,705	$(959)
15	2010	$744	$8,924	$652	$7,820	$(1,104)
16	2011	$766	$9,192	$661	$7,937	$(1,254)
17	2012	$789	$9,467	$671	$8,056	$(1,411)
18	2013	$813	$9,751	$681	$8,177	$(1,574)
19	2014	$837	$10,044	$692	$8,300	$(1,744)
20	2015	$862	$10,345	$702	$8,425	$(1,921)
21	2016	$888	$10,656	$713	$8,551	$(2,105)
22	2017	$915	$10,975	$723	$8,679	$(2,296)
23	2018	$942	$11,305	$734	$8,809	$(2,495)
24	2019	$970	$11,644	$745	$8,941	$(2,702)
25	2020	$999	$11,993	$756	$9,076	$(2,917)
					Total	$(25,625)

EXHIBIT
A

Public Employees Retirement Systems
Average Retiree cost of GABA Reduction from 3.0% to 1.0%

Average Age* **60.1**
Average Years of Service* **18.5**
Average Monthly Benefit* **$537**
***Source June 30, 1996 Actuarial Valuation**

	Year	Monthly Benefit-GABA 1998 - 2001 @ 1.5% 2002 - forward @ 3%	Annual Gross Benefits	Monthly Benefit-GABA @ 1.0%	Annual Gross Benefits	Annual Cost of Reducing GABA to 1.0%
1	1996	$537	$6,444	$537	$6,444	$-
2	1997	$537	$6,444	$537	$6,444	$-
3	1998	$545	$6,541	$542	$6,508	$(32)
4	1999	$553	$6,639	$548	$6,574	$(65)
5	2000	$562	$6,738	$553	$6,639	$(99)
6	2001	$570	$6,839	$559	$6,706	$(134)
7	2002	$587	$7,045	$564	$6,773	$(272)
8	2003	$605	$7,256	$570	$6,840	$(416)
9	2004	$623	$7,474	$576	$6,909	$(565)
10	2005	$641	$7,698	$581	$6,978	$(720)
11	2006	$661	$7,929	$587	$7,048	$(881)
12	2007	$681	$8,167	$593	$7,118	$(1,048)
13	2008	$701	$8,412	$599	$7,189	$(1,222)
14	2009	$722	$8,664	$605	$7,261	$(1,403)
15	2010	$744	$8,924	$611	$7,334	$(1,590)
16	2011	$766	$9,192	$617	$7,407	$(1,784)
17	2012	$789	$9,467	$623	$7,481	$(1,986)
18	2013	$813	$9,751	$630	$7,556	$(2,195)
19	2014	$837	$10,044	$636	$7,632	$(2,412)
20	2015	$862	$10,345	$642	$7,708	$(2,637)
21	2016	$888	$10,656	$649	$7,785	$(2,871)
22	2017	$915	$10,975	$655	$7,863	$(3,112)
23	2018	$942	$11,305	$662	$7,942	$(3,363)
24	2019	$970	$11,644	$668	$8,021	$(3,623)
25	2020	$999	$11,993	$675	$8,101	$(3,892)
					Total	(36,323)

EXHIBIT
tabbles
B

Public Employees Retirement System
Average Retiree cost of GABA Reduction from 3.0% to 1.5%

Average Age* **59.3**
Average Years of Service* **19.8**
Average Monthly Benefit* **$1,159**
***Source June 30, 2012 Actuarial Valuation**

	Year	Monthly Benefit- GABA @ 3%	Annual Gross Benefits	Monthly Benefit- GABA @ 1.5%	Annual Gross Benefits	Annual Cost of Reducing GABA to 1.5%
1	2012	$1,159	$13,908	$1,159	$13,908	$-
2	2013	$1,194	$14,325	$1,176	$14,117	$(209)
3	2014	$1,230	$14,755	$1,194	$14,328	$(427)
4	2015	$1,266	$15,198	$1,212	$14,543	$(654)
5	2016	$1,304	$15,654	$1,230	$14,761	$(892)
6	2017	$1,344	$16,123	$1,249	$14,983	$(1,140)
7	2018	$1,384	$16,607	$1,267	$15,208	$(1,399)
8	2019	$1,425	$17,105	$1,286	$15,436	$(1,669)
9	2020	$1,468	$17,618	$1,306	$15,667	$(1,951)
10	2021	$1,512	$18,147	$1,325	$15,902	$(2,245)
11	2022	$1,558	$18,691	$1,345	$16,141	$(2,550)
12	2023	$1,604	$19,252	$1,365	$16,383	$(2,869)
13	2024	$1,652	$19,829	$1,386	$16,629	$(3,201)
14	2025	$1,702	$20,424	$1,407	$16,878	$(3,546)
15	2026	$1,753	$21,037	$1,428	$17,131	$(3,906)
16	2027	$1,806	$21,668	$1,449	$17,388	$(4,280)
17	2028	$1,860	$22,318	$1,471	$17,649	$(4,669)
18	2029	$1,916	$22,988	$1,493	$17,914	$(5,074)
19	2030	$1,973	$23,677	$1,515	$18,182	$(5,495)
20	2031	$2,032	$24,388	$1,538	$18,455	$(5,933)
21	2032	$2,093	$25,119	$1,561	$18,732	$(6,387)
22	2033	$2,156	$25,873	$1,584	$19,013	$(6,860)
23	2034	$2,221	$26,649	$1,608	$19,298	$(7,351)
24	2035	$2,287	$27,449	$1,632	$19,588	$(7,861)
25	2036	$2,356	$28,272	$1,657	$19,882	$(8,391)
					Total	**$(88,959)**

EXHIBIT
C

Public Employees Retirement Systems
Average Retiree cost of GABA Reduction from 3.0% to 1.0%

Average Age* **59.3**
Average Years of Service* **19.8**
Average Monthly Benefit* **$1,159**
***Source June 30, 2012 Actuarial Valuation**

	Year	Monthly Benefit- GABA @ 3%	Annual Gross Benefits	Monthly Benefit- GABA @ 1.0%	Annual Gross Benefits	Annual Cost of Reducing GABA to 1.0%
1	2012	$1,159	$13,908	$1,159	$13,908	$-
2	2013	$1,194	$14,325	$1,171	$14,047	$(278)
3	2014	$1,230	$14,755	$1,182	$14,188	$(567)
4	2015	$1,266	$15,198	$1,194	$14,329	$(868)
5	2016	$1,304	$15,654	$1,206	$14,473	$(1,181)
6	2017	$1,344	$16,123	$1,218	$14,617	$(1,506)
7	2018	$1,384	$16,607	$1,230	$14,764	$(1,843)
8	2019	$1,425	$17,105	$1,243	$14,911	$(2,194)
9	2020	$1,468	$17,618	$1,255	$15,060	$(2,558)
10	2021	$1,512	$18,147	$1,268	$15,211	$(2,936)
11	2022	$1,558	$18,691	$1,280	$15,363	$(3,328)
12	2023	$1,604	$19,252	$1,293	$15,517	$(3,735)
13	2024	$1,652	$19,829	$1,306	$15,672	$(4,158)
14	2025	$1,702	$20,424	$1,319	$15,829	$(4,596)
15	2026	$1,753	$21,037	$1,332	$15,987	$(5,050)
16	2027	$1,806	$21,668	$1,346	$16,147	$(5,521)
17	2028	$1,860	$22,318	$1,359	$16,308	$(6,010)
18	2029	$1,916	$22,988	$1,373	$16,471	$(6,516)
19	2030	$1,973	$23,677	$1,386	$16,636	$(7,041)
20	2031	$2,032	$24,388	$1,400	$16,802	$(7,585)
21	2032	$2,093	$25,119	$1,414	$16,970	$(8,149)
22	2033	$2,156	$25,873	$1,428	$17,140	$(8,733)
23	2034	$2,221	$26,649	$1,443	$17,312	$(9,338)
24	2035	$2,287	$27,449	$1,457	$17,485	$(9,964)
25	2036	$2,356	$28,272	$1,472	$17,659	$(10,613)
					Total	(114,269)

EXHIBIT
D

Public Employees Retirement System
Historical Actuarial Information
(dollars in thousands)

Year	Actuarial Accrued Liability	Actuarial Value of Assets	Unfunded Actuarial Accrued Liability (Surplus)	Funded * Ratio
1992	$1,410,298	$1,133,201	$277,097	80%
1993	No Valuation			
1994	$1,625,720	$1,366,864	$258,856	84%
1995	No Valuation			
1996	$1,826,206	$1,629,706	$196,500	89%
1997	No Valuation			
1998	$2,300,328	$2,128,065	$172,263	92%
1999	No Valuation			
2000	$2,273,407	$2,843,347	($569,940)	125%
2001	No Valuation			
2002	$3,077,764	$3,076,781	$983	100%
2003	No Valuation			
2004	$3,514,085	$3,047,287	$466,798	87%
2005	$3,719,998	$3,179,010	$540,988	85%
2006	$3,919,313	$3,459,084	$460,229	88%
2007	$4,201,251	$3,825,234	$376,017	91%
2008	$4,504,743	$4,065,307	$439,436	90%
2009	$4,792,819	$4,002,212	$790,607	84%
2010	$5,241,819	$3,889,890	$1,351,929	74%
2011	$5,410,144	$3,800,479	$1,609,665	70%
2012	$5,661,281	$3,816,920	$1,844,361	67%
2013	$5,160,951	$4,139,921	$1,021,030	80%

* Funded Ratio rounded to whole %

EXHIBIT
E

family or providers that are chosen by the family to the extent possible to meet the goals of the Youth Court Act."

(h) This section must be placed in House Bill No. 114 and is intended to be codified in Title 41, chapter 5, part 3, and the provisions of Title 41, chapter 5, part 3, apply to this section:

"NEW SECTION. **Section 47. Criteria for placement of youth in youth assessment centers.** A youth may be placed in a youth assessment center only if:

(1) the youth meets the requirements for placement in shelter care;

(2) the youth has not committed an act that would be a felony offense if committed by an adult;

(3) the youth needs an alternative, staff-secured site for evaluation and assessment of the youth's need for services;

(4) the youth needs to be held accountable for the youth's actions with structured programming; and

(5) the youth meets qualifications as outlined by the placement guidelines that are determined by the department and coordinated with the guidelines used by the youth placement committees."

(i) This section must be placed in House Bill No. 114:

"NEW SECTION. **Section 50. Code commissioner instruction.** (1) Wherever a reference to "an aftercare agreement" appears in House Bill No. 114, the code commissioner is directed to change it to an appropriate reference to "a parole agreement".

(2) References to "an aftercare agreement" that are contained in Title 41, chapter 5, in material enacted by the 55th legislature must be changed to "a parole agreement"."

Section 50. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 51. Applicability. [This act] applies to proceedings commenced after [the effective date of this act].

Approved April 17, 1997

CHAPTER NO. 287

[HB 170]

AN ACT ESTABLISHING A GUARANTEED ANNUAL BENEFIT ADJUSTMENT FOR CERTAIN BENEFIT RECIPIENTS IN THE STATEWIDE PUBLIC EMPLOYEE RETIREMENT SYSTEMS UNDER THE PUBLIC EMPLOYEES' RETIREMENT BOARD; DEFINING "ACTUARIALLY SOUND BASIS"; MAKING THE ANNUAL ADJUSTMENT AN

EXHIBIT 3

ALTERNATIVE TO CERTAIN EXISTING BENEFITS; INCREASING CONTRIBUTION RATES AND MODIFYING CERTAIN BENEFITS TO FUND THE ADJUSTMENT; PROVIDING THAT CERTAIN COURT FEES BE CREDITED TO THE GENERAL FUND; REQUIRING THAT MEMBERS OF THE PUBLIC EMPLOYEES' AND HIGHWAY PATROL OFFICERS' RETIREMENT SYSTEMS PAY THE FULL ACTUARIAL COST OF PURCHASING CERTAIN SERVICE; ALLOWING MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO BECAME MEMBERS ON OR AFTER JULY 1, 1989, TO PURCHASE ADDITIONAL SERVICE FOR CALCULATING BENEFITS; REDEFINING THE SALARY USED TO CALCULATE CERTAIN BENEFITS UNDER THE JUDGES' AND FIREFIGHTERS' RETIREMENT SYSTEMS; ADJUSTING CERTAIN DEATH BENEFITS PAID UNDER THE JUDGES' AND GAME WARDENS' RETIREMENT SYSTEMS; REPLACING CURRENT POSTRETIREMENT ADJUSTMENTS AND MINIMUM BENEFITS UNDER EACH RETIREMENT SYSTEM FOR CURRENT MEMBERS WHO ELECT THE ANNUAL ADJUSTMENT AND FOR ALL NEW MEMBERS; AMENDING SECTIONS 3-2-404, 3-2-405, 19-3-315, 19-3-316, 19-3-503, 19-3-512, 19-3-513, 19-5-101, 19-5-404, 19-5-502, 19-5-601, 19-5-802, 19-6-402, 19-6-404, 19-6-707, 19-6-709, 19-6-801, 19-8-502, 19-8-504, 19-8-1002, 19-9-702, 19-9-710, 19-9-1007, 19-13-601, 19-13-604, 19-13-704, 19-13-803, 19-13-902, 19-13-1006, 19-13-1007, 19-13-1009, AND 25-1-201, MCA; REPEALING SECTIONS 19-3-1601, 19-3-1602, 19-3-1603, 19-7-708, 19-7-709, 19-7-710, 19-8-1101, 19-8-1102, AND 19-8-1103, MCA; AND PROVIDING AN EFFECTIVE DATE.

STATEMENT OF INTENT

A statement of intent is required for this bill because [sections 1 through 3] give the public employees' retirement board authority to adopt rules to implement the provisions of the bill.

It is the intent of the legislature to guarantee a minimum level of annual benefit increases for retired members and their contingent annuitants or survivors under each of the statewide public employee retirement systems. The legislature also intends to fund this guaranteed annual benefit adjustment (GABA) in the most cost-effective manner possible.

Because the GABA is intended to address the erosion of retirement benefits caused by inflation as cost-effectively as possible, it is the intent of the legislature that the guaranteed annual 1.5% minimum adjustment not begin until after the original benefit has been paid for at least 36 months.

Because it is most cost-effective to reduce current unfunded liabilities as well as to avoid future unfunded liabilities and to fund new benefits as they accrue, the bill provides that the GABA be substituted for other benefits in cases in which the GABA is as valuable or more valuable to members. The resulting actuarial savings will reduce the additional funding required for the GABA.

In the public employees', sheriffs', and game wardens' retirement systems, all members will automatically be covered by the GABA provided for in this bill instead of the current postretirement adjustments based on investment earnings.

In the highway patrol officers', municipal police officers', firefighters' unified, and judges' retirement systems, in which the substitution of the GABA in place of other benefits is not a clear benefit enhancement for all current members, it is the intent of the legislature that the members be provided with a thorough analysis of the benefits to be substituted so that members may individually and irrevocably elect whether to be covered under the provisions of this bill. However, it is not the intent of the legislature that the retirement board or its administrative staff be required to recommend a specific or best choice to individual members.

It is the intent of the legislature that all future members of these systems be covered by the GABA in place of certain other benefits.

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

Section 1. Guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 1.5%.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 1.5% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 1.5% in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a 1.5% annualized increase, then the benefit increase provided under this section must be 0%.

(c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the original payee that occurred since the preceding January, the new recipient's monthly benefit must be increased to 1.5% more than the amount that the contingent annuitant would have received had the contingent annuitant received a benefit during the preceding January.

(3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's initiation date is at least 36 months prior to January 1 of the year in which the adjustment is to be made; and

(b) the benefit recipient is not an active member of a public retirement system covered by this title.

(4) The board shall adopt rules to administer the provisions of this section.

Section 2. Guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 1.5%.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 1.5% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 1.5% in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a 1.5% annualized increase, then the benefit increase provided under this section must be 0%.

(c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the original payee that occurred since the preceding January, the new recipient's monthly benefit must be increased to 1.5% more than the amount that the contingent annuitant would have received had the contingent annuitant received a benefit during the preceding January.

(3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's initiation date is at least 36 months prior to January 1 of the year in which the adjustment is to be made;

(b) the benefit recipient is not an active member of a public retirement system covered by this title; and

(c) the member or benefit recipient either:

(i) first became an active member on or after [the effective date of this act]; or

(ii) filed a voluntary, irrevocable election to be covered under this section. The election must be filed with the board prior to January 1, 1998.

(4) The board shall adopt rules to administer the provisions of this section.

Section 3. Guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 1.5%.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 1.5% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 1.5% in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a 1.5% annualized increase, then the benefit increase provided under this section must be 0%.

(3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's initiation date is at least 36 months prior to January 1 of the year in which the adjustment is to be made;

(b) the benefit recipient is not an active member of a public retirement system covered by this title; and

(c) the member either:

(i) first became an active member on or after [the effective date of this act]; or

(ii) filed a voluntary, irrevocable election to be covered under this section. The election must be filed with the board prior to January 1, 1998, and requires an active member to pay an increased contribution rate from [the effective date of this act] forward. A retired member or the member's survivor who is receiving a monthly benefit before [the effective date of this act] shall also file the voluntary, irrevocable election no later than January 1, 1998, to be covered under this section.

(4) The board shall adopt rules to administer the provisions of this section.

Section 4. State contributions for local government and school district employers. The state shall contribute monthly from the general fund to the pension trust fund a sum equal to 0.1% of the compensation of members employed by local government entities and school districts on and after [the effective date of this act]. The division shall certify amounts due under this section on a monthly basis, and the state treasurer shall transfer those amounts to the pension trust fund within 1 week.

Section 5. Systems to be funded on actuarially sound basis — definition. As required by Article VIII, section 15, of the Montana constitution, each system must be funded on an actuarially sound basis. For purposes of this section, "actuarially sound basis" means that contributions to each system must be sufficient to pay the full actuarial cost of the system. The full actuarial cost includes both the normal cost of providing benefits as they accrue in the future and the cost of amortizing unfunded liabilities over a scheduled period of no more than 30 years.

Section 6. Section 3-2-404, MCA, is amended to read:

"**3-2-404. Disposition of fees.** Except as otherwise provided by law, ~~three-fourths of~~ all fees collected by the clerk must be paid into the state treasury and ~~shall~~ *must* be credited to the general fund~~, and the remaining one-fourth of the fees shall be paid to the public employees' retirement division of the department of administration to be credited to the Montana judges' retirement system account~~."

Section 7. Section 3-2-405, MCA, is amended to read:

"**3-2-405. Settlements and accounts to state auditor.** (1) The clerk is responsible and ~~must~~ *shall* account for and, in ~~his~~ *the clerk's* settlement with the state auditor, must be charged with the full amount of all fees collected or chargeable and accruing in causes brought into the court for services rendered ~~therein~~ up to the time of each settlement. The settlement must take place quarterly, and immediately ~~thereafter~~ *after settlement*, the clerk ~~must~~ *shall* pay the amount found due into the treasury ~~or to the public employees' retirement division, as provided in 3-2-404~~.

(2) ~~He~~ *The clerk* ~~must~~ *shall* ~~also~~ at the end of each quarter render to the state auditor, in ~~such~~ *a* form ~~as~~ that *the* ~~officer~~ *state auditor* prescribes, an account in

detail and under oath of all fees chargeable and accruing in causes brought into court and not included in ~~his~~ *the clerk's* previous accounts.

(3) ~~His~~ *The clerk's* salary may not be allowed or paid until all fees ~~so accruing~~ for which ~~he~~ *the clerk* is chargeable have been accounted for and paid ~~over~~."

Section 8. Section 19-3-315, MCA, is amended to read:

"**19-3-315. Member's contribution to be deducted.** (1) On and after July 1, ~~1993~~ *1997*, the regular contribution of each member is ~~6.70%~~ *6.8%* of the member's compensation. *Each member's contribution increases to 6.9% beginning July 1, 1999.*

(2) Payment of salaries or wages less the contribution is full and complete discharge and acquittance of all claims and demands for the service rendered by members during the period covered by the payment, except their claims to the benefits to which they may be entitled under the provisions of this chapter.

(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 subsection (1) 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 compensation. 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."

Section 9. Section 19-3-316, MCA, is amended to read:

"**19-3-316. Employer contribution rates.** *(1)* Each employer shall contribute to the cost of benefits under the system. ~~On and after July 1, 1993~~ *Except as provided in subsection (2)*, the amount of the employer ~~contributions is 6.70% of each~~ *contribution as a percentage of the* employer's covered payroll *is 6.8% beginning July 1, 1997, and increases to 6.9% beginning July 1, 1999.*

(2) Local government and school district employer contributions must be the total employer contribution rate provided in subsection (1) minus the state contribution rate applied to their monthly covered payrolls under [section 4]."

Section 10. Section 19-3-503, MCA, is amended to read:

"**19-3-503. Election to qualify military service.** (1) (a) ~~A~~ *Except as provided in subsection (2), a* member with 10 years or more of service credits may, at any time prior to retirement, make a written election with the board to purchase service credits for all or any portion of the member's active service in the armed forces of the United States, including the first special service force or the American merchant marine in oceangoing service during the period of armed conflict, December 7, 1941, to August 15, 1945, up to a maximum of 5 years, if the member is not otherwise eligible to receive service credit for this same service pursuant to 19-2-705 *or is ineligible under subsection (2)(a)*.

(b) To qualify this service, the member shall contribute to the pension trust fund the ~~amount determined by the board to be due based on the member's compensation and regular contribution rate as of the member's 11th year and as many succeeding years as are required to qualify this service, with regular interest from the date the member becomes eligible for this benefit to the date the member contributes. The member may not purchase more of this service credit than the member has service credits in excess of 10 years~~ *actuarial cost of the service credit based on the most recent actuarial valuation of the system.*

(2) *(a)* If a member has retired from active duty in the armed forces of the United States, including the first special service force or the American merchant marine in oceangoing service during the period of armed conflict, December 7, 1941, to August 15, 1945, with a military service retirement benefit, the member may not qualify the member's military service under subsection (1).

(b) However, a member who is serving or has served in the military reserves with the expectation of receiving a military service pension may qualify the member's active military service under subsection (1) if the member's active duty in the armed forces of the United States, including the first special service force or the American merchant marine in oceangoing service during the armed conflict, December 7, 1941, to August 15, 1945, is not more than 25% of the total sum of all years of military service including reserve and active duty time."

Section 11. Section 19-3-512, MCA, is amended to read:

"19-3-512. Qualification of service from other public retirement systems. (1) A member with 5 or more years of membership service in the public employees' retirement system may qualify:

(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 qualify more than 5 years of service under this section. To qualify this service, a member shall:

(a) at any time before retirement make a written election with the board to qualify the service; and

(b) contribute to the pension trust fund the actuarial cost of granting the service in the public employees' retirement system, as determined by the board~~,~~ based on~~:~~

~~(i) the member's compensation in the sixth year of service covered under the public employees' retirement system; and~~

~~(ii)~~ the most recent actuarial valuation *of the system*.

(3) Contributions to qualify service under this section may be made in a lump-sum payment or by making additional contributions in installments as agreed upon by the member and the board.

(4) Service qualified under this section may not be:

(a) credited in any other retirement system under Title 19; or

(b) used to qualify a member to purchase military service under 19-3-503.

(5) Service qualified 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 a member's qualified service may not be used in calculating the member's retirement benefit, the member may choose to receive a refund of the accumulated contributions made to qualify the service."

Section 12. Section 19-3-513, MCA, is amended to read:

"19-3-513. Election to purchase additional service. (1) At any time before retirement, a person ~~who became a member of the retirement system before July 1, 1989, and~~ who has 5 years or more of membership service may make a written election with the board to purchase additional service credit for the purpose of calculating the member's retirement benefit. Except as provided in subsection (3), the member may purchase 1 year of additional service credit for each 5 years of membership service that the member has qualified under the retirement system, up to a maximum of 5 years of additional service.

(2) For each year of service credit purchased under this section, a member shall contribute to the pension trust fund ~~an amount equal to the member's compensation for the 12-month period immediately preceding the date the member elects to purchase the service multiplied by the combined employee and employer contribution rates contained in 19-3-315 and 19-3-316~~ *the actuarial cost of the service credit based on the most recent actuarial valuation of the system.* Contributions may be made in a lump-sum payment or by making additional contributions in installments as agreed upon by the member and the board.

(3) (a) Except as provided in subsection (3)(b), ~~after January 1, 1990,~~ a member may elect to qualify a combined total of 5 years of service under 19-3-503, 19-3-512, or this section.

(b) A member who has purchased service under 19-3-503 or 19-3-512 on or before January 1, 1990, and who elects to purchase service under this section shall receive credit for the full months of service purchased on or before January 1, 1990.

(4) Service purchased under this section is not membership service and may not be used to qualify a member for service retirement."

Section 13. Section 19-5-101, MCA, is amended to read:

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

(1) "Compensation" means remuneration as defined in 2-16-403, 3-5-211, and 3-7-222 paid to a member.

(2) "Current salary" means the current compensation for the office retired from.

(3) *"Final average salary" means the average of the member's highest monthly compensation during any 36 consecutive months of membership service in the retirement system.*

(4) "Involuntary retirement" means a retirement not for cause and before retirement age.

~~(4)~~*(5)* "Retired judge" means any judge or justice in receipt of a retirement benefit under this chapter."

Section 14. Section 19-5-404, MCA, is amended to read:

"**19-5-404. Contributions by state.** (1) ~~The~~ *Except as provided in subsection (2), the* state of Montana shall contribute monthly to the pension trust fund a sum equal to ~~6%~~ *25.81%* of the compensation of each member. ~~In addition, the clerk of each district court shall transmit 68% of certain filing fees as required under 25-1-201(2) and that portion of the fee for filing a petition for dissolution of marriage and a motion for substitution of a judge specified in 25-1-201(4) and (6) to the state, which shall first deposit in the pension trust fund an amount equal to 34.71% of the total compensation paid to district judges and supreme court justices who are covered by the judges' retirement system and then deposit the balance in the state general fund. The clerk of the supreme court shall pay one-fourth of the fees collected under 3-2-403 to the division to be credited to the pension trust fund.~~

(2) The state of Montana shall contribute monthly from the renewable resource grant and loan program account in the state special revenue fund to the judges' pension trust fund an amount equal to ~~34.71%~~ *25.81%* of the compensation paid to the chief water court judge."

Section 15. Section 19-5-502, MCA, is amended to read:

"**19-5-502. Service retirement benefit.** Upon retirement from service, ~~a member must receive a~~ *the* service retirement benefit ~~equal to~~ *must be as follows:*

(1) for members not covered under [section 2], 3 1/3% per year of the member's current salary for the first 15 years of credited service and 1.785% per year for each year of credited service after 15 years~~.~~*; or*

(2) for members covered under [section 2], the benefit provided under subsection (1) except that the benefit must be calculated using final average salary."

Section 16. Section 19-5-601, MCA, is amended to read:

"**19-5-601. Disability retirement benefit.** In case of the disability of a member, a disability retirement benefit must be granted the 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. If the disability is a direct result of any service to the Montana judiciary in the line of duty, the ~~member must receive a benefit equal to~~ *member's disability retirement benefit must be no less than:*

(1) one-half of the member's final current salary ~~or the benefit provided in 19-5-502, whichever is greater~~ *for a person not covered under [section 2]; or*

(2) one-half of the member's final average salary for a person covered under [section 2]."

Section 17. Section 19-5-802, MCA, is amended to read:

"**19-5-802. Payments in case of death from other causes.** (1) If a retired member who ~~chose a regular~~ *is not covered under [section 2] and who did not choose an option 2, 3, or 4 form of* retirement benefit *payment under 19-5-701* dies before receiving payments equal to the present value of the member's retirement benefit as it was at the time of the member's retirement, the balance must be paid to the member's designated beneficiary in a lump sum. 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) *Upon the death of a retiree who did not choose an option 2, 3, or 4 form of retirement benefit payment under 19-5-701 and who is covered under [section 2], the member's designated beneficiary must be paid the unpaid balance of the retiree's benefit. The benefit must be calculated by subtracting the total benefits paid to the member during the member's lifetime from the member's total amount of contributions and interest on account as that amount was on the day that the member retired.*

(3) If a member dies before reaching retirement age, the member's designated beneficiary is entitled to a monthly survivorship benefit that is the actuarial equivalent of the *involuntary retirement* options as provided in 19-5-503."

Section 18. Section 19-6-402, MCA, is amended to read:

"**19-6-402. Member's contribution.** (1) ~~Each~~ *(a)* A member *not covered under [section 3]* shall contribute into the pension trust fund ~~a sum equal to~~ 9% of the member's monthly compensation~~, which must be deposited to the member's credit in the pension trust fund~~.

(b) A member covered under [section 3] shall contribute to the pension trust fund 9.05% of the member's monthly compensation.

(2) 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 subsection (1) for service rendered after June 30, 1985.

(3) 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.

(4) 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 compensation as used to define the member's final average salary in 19-6-101. 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."

Section 19. Section 19-6-404, MCA, is amended to read:

"**19-6-404. State's contribution.** The state of Montana shall annually contribute to the pension trust fund an amount equal to ~~36.28%~~ *36.33%* of the total compensation paid to the members from the following sources:

(1) an amount equal to ~~26.10%~~ *26.15%* of the total compensation of the members is payable from the same source that is used to pay compensation to the members; and

(2) an amount equal to 10.18% of the total compensation of the members is payable from a portion of the fees from driver's licenses and duplicate driver's licenses as provided in 61-5-121."

Section 20. Section 19-6-707, MCA, is amended to read:

"**19-6-707. Minimum monthly benefit.** (1) Subject to the limitations contained in subsection (2), the following retired members, *or* ~~and~~ their survivors, *who are not covered by [section 3]* are eligible to receive a monthly benefit of not less than 2% multiplied by the member's service credits multiplied by the current base compensation received by a probationary highway patrol officer:

(a) a retired member who is 55 years of age or older, except as provided in subsection (3), or the member's survivor, who is receiving a service retirement benefit;

(b) a retired member, or the member's survivor, who is receiving a disability retirement benefit; and

(c) a recipient of a survivorship benefit.

(2) (a) The maximum monthly benefit paid under subsection (1) may not exceed 60% of the current base compensation of a probationary highway patrol officer.

(b) The annual increase in a monthly benefit under subsection (1) may not exceed 5% of the current monthly benefit paid to a retired member or the member's survivor.

(3) A retired member otherwise qualified under subsection (1)(a) who is employed in a position covered by a retirement system under Title 19 is ineligible to receive the minimum monthly benefit provided for in this section until the member's service in the covered position is terminated."

Section 21. Section 19-6-709, MCA, is amended to read:

"**19-6-709. (Temporary) Supplemental benefits for certain retirees.** (1) In addition to any retirement benefit payable under this chapter, a retired member or a survivor determined by the board to be eligible under subsection (2) must receive an annual lump-sum benefit payment beginning in September 1991 and each succeeding year as long as the member remains eligible.

(2) To be eligible for the benefits under this section, a person must be receiving a monthly benefit before July 1, 1991, *may not be covered by [section 3]*, and must be:

(a) a retired member who is 55 years of age or older and who has been receiving a service retirement benefit for at least 5 years prior to the date of distribution;

(b) a survivor of a member who would have been eligible under subsection (2)(a); or

(c) a recipient of a disability or survivorship benefit under 19-6-601 or 19-6-901.

(3) A retired member otherwise qualified under this section who is employed in a position covered by a retirement system under Title 19 is ineligible to receive any lump-sum benefit payments provided for in this section until the member's service in the covered position is terminated. Upon termination of the member's covered service, the retired member becomes eligible in the next fiscal year succeeding the member's termination.

(4) (a) Twenty-five cents of each motor vehicle registration fee provided for in 61-3-321 must be deposited in the pension trust fund at the end of each fiscal year. The fee is statutorily appropriated, as provided in 17-7-502, for payment of benefits to eligible recipients. The total funds must be distributed by the division in lump-sum payments to eligible recipients along with their normal retirement benefit payment.

(b) The lump-sum payment must be distributed proportionally to all eligible recipients based on service credit at the time of retirement, subject to the following:

(i) a recipient under subsection (2)(c) is considered to have 20 years of service for the purposes of the distributions;

(ii) any recipient of a service retirement benefit exceeding the maximum monthly benefit under 19-6-707(2)(a) must have the recipient's service credit reduced 25% for the purposes of the distributions;

(iii) the maximum annual increase in the amount of supplemental benefits paid to each individual under this section ~~after August 31, 1993,~~ is the percentage increase for the previous calendar year in the annual average consumer price index for urban wage earners and workers, compiled by the bureau of labor statistics of the United States department of labor or its successor agency.

(c) Any amount deposited in the pension trust fund under subsection (4)(a) for the payment of supplemental benefits under this section that exceeds the limitation of subsection (4)(b)(iii) must be used to amortize unfunded liabilities of the retirement system.

(5) Every 10 years following July 1, 1991, the division shall review the size of the additional fee collected under 61-3-321(5) and deposited in the account in accordance with subsection (4)(a) and recommend to each legislature following the division's review any legislation necessary to reduce the fee to the minimum amount necessary to provide the supplemental benefits provided by this section."

Section 22. Section 19-6-801, MCA, is amended to read:

"**19-6-801. Election to qualify military service.** (1) A member with 15 years or more of service credit with the Montana highway patrol may, at any time prior to retirement, make a written election with the division to qualify all or any portion of the member's active service in the armed forces of the United States for the purpose of calculating retirement benefits, up to a maximum of 5 years, if the member is not otherwise eligible to receive service credit for this same service pursuant to 19-2-705.

(2) To qualify this service ~~the~~:

(a) a member *not covered by [section 3]* shall contribute to the account the amount determined by the division to be due based on the member's compensation and regular contribution rate as of the member's 16th year and as many succeeding years as are required to qualify this service, with interest from the date the member becomes eligible for this benefit to the date the member contributes. The member may not qualify more of this service than the member has service with the Montana highway patrol in excess of 15 years.

(b) a member covered by [section 3] shall contribute the actuarial cost of the service credit based on the most recent actuarial valuation of the system."

Section 23. Section 19-8-502, MCA, is amended to read:

"**19-8-502. Member's contribution.** (1) ~~Every~~ *Each* member is required to contribute into the pension trust fund ~~a sum equal to 7.9%~~ *8.5%* of the member's monthly compensation, which ~~sum~~ must be deposited to the member's credit in the pension trust fund.

(2) 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 subsection (1) for service rendered after June 30, 1985.

(3) 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.

(4) 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 the member's compensation as used to define the member's final average salary in 19-8-101. 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."

Section 24. Section 19-8-504, MCA, is amended to read:

"**19-8-504. State's contribution.** Each month, the state treasurer shall pay to the pension trust fund out of the department of fish, wildlife, and parks funds, a sum equal to ~~8.15%~~ *9%* of all members' salaries."

Section 25. Section 19-8-1002, MCA, is amended to read:

"**19-8-1002. Postretirement death payments.** If a ~~retired~~ member who *retires on or after [the effective date of this act] and who* has not chosen an ~~optional~~ *option 2, 3, or 4* retirement benefit under 19-8-801 dies before receiving an amount equal to the ~~present value of the member's service retirement benefit under 19-8-603~~ *member's total amount of contributions and interest on account* as ~~it~~ *that amount* was at the time of the member's retirement, the balance must be paid to the member's designated beneficiary in a lump-sum payment. ~~At the option of the designated beneficiary, the lump-sum payment may be annuitized and paid over the beneficiary's lifetime; however, the payment is not a benefit subject to increases.~~"

Section 26. Section 19-9-702, MCA, is amended to read:

"**19-9-702. State contribution.** The state of Montana shall make its contributions through the state auditor out of the premium tax on motor vehicle property and casualty insurance policies. The payments must be made annually after the end of each fiscal year but no later than November 1 from the gross premium tax after deduction for cancellations and returned premiums. The division shall notify the auditor by September 1 of each fiscal year of the annual compensation paid to all active members during the preceding fiscal year. The state's contribution is ~~15.66%~~ *15.96%* of compensation paid to members."

Section 27. Section 19-9-710, MCA, is amended to read:

"**19-9-710. Member's contribution.** (1) ~~The~~ *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 7.8% ~~of the member's compensation.~~*;*

(b) ~~In the case of a member first employed by an employer as a police officer~~ after June 30, 1975, ~~the contribution~~ is 9% ~~of the member's compensation.~~*;*

(c) ~~In the case of a member first employed by an employer as a police officer~~ after June 30, 1979, *but before [the effective date of this act],* ~~the contribution~~ is 10.5% ~~of the member's compensation.~~*; and*

(d) on and after [the effective date of this act], is 11%.

(2) A member covered under [section 3] shall pay a contribution rate equal to 11% of compensation received on and after [the effective date of this act].

(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 ~~subsection~~ *subsections* (1) *and (2)* for service rendered after June 30, 1985.

~~(3)~~*(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.

~~(4)~~*(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."

Section 28. Section 19-9-1007, MCA, is amended to read:

"**19-9-1007. Supplement to certain benefits.** (1) The benefits paid in each fiscal year to a retired member or the member's survivors *and that are not covered by [section 3]* may not be less than one-half of the compensation that will be paid in the current fiscal year in the appropriate city or town to newly confirmed police officers.

(2) On or before October 1 of each year, the division shall make a report including the following information:

(a) the names of all retired members who are receiving benefits from the retirement system as of the date of the report;

(b) the names of all surviving spouses or dependent children who are receiving benefits from the retirement system because of the death of an active or retired member of this or a prior plan;

(c) for the purpose of determining the base retirement, disability, or survivorship benefits for the computations set forth in subsection (3), the following information relating to the base fiscal year commencing July 1, 1976:

(i) the amount of the benefits paid in the base fiscal year to each retired member described in subsection (2)(a);

(ii) the amount of the benefits paid in the base fiscal year to each surviving spouse or dependent child described in subsection (2)(b);

(iii) upon the death after the base fiscal year of any retired member who was receiving benefits, the amount of benefits that would have been paid to an eligible surviving spouse of the retired member if the surviving spouse had been receiving benefits in the base fiscal year;

(d) the original amount of retirement, disability, or survivorship benefits paid to retired members or their eligible survivors as of the original retirement dates after July 1, 1975;

(e) the compensation that will be paid during the current fiscal year to a newly confirmed police officer of each city or town participating in the retirement system.

(3) The division shall compute the difference between each amount reported under subsections (2)(c) through (2)(e) and one-half the compensation to be paid during the current fiscal year to a newly confirmed police officer of the appropriate city or town. The difference must be reported to the state auditor who shall pay the difference to the pension trust fund out of the premium tax collected on insurance sold in this state to insure against the risks enumerated in 19-18-512(3) no later than November 1. If the compensation of a newly

confirmed police officer has not been set for the current fiscal year in time to be included in the October 1 report to the state auditor, the division shall make any retroactive adjustments necessary to individual supplemental benefits after the current compensation has been determined and shall include these amounts in the next year's report for reimbursement at that time.

(4) The premium tax amount paid by the state auditor is statutorily appropriated, as provided in 17-7-502, for the payment of supplemental retirement benefits to eligible retired members and their survivors. This payment is in addition to the payment to be made by the state auditor under 19-9-702.

(5) If more than one dependent child is entitled to supplementary benefits under this section by virtue of the death of a common parent, the minimum benefit paid to the dependent children under this section must be determined as if there were one dependent child and the supplementary benefits must be paid to the dependent children collectively."

Section 29. Section 19-13-601, MCA, is amended to read:

"19-13-601. Deduction remitted to firemen's association — member's contribution. (1) Each employer shall retain from the compensation of each active member a sum equal to 1% of the member's compensation for services as a firefighter and shall remit this amount on a monthly basis to the Montana state firemen's association for the payment of premiums on a group life and accidental death and dismemberment insurance policy for members and to defray expenses incurred by the association when representing members of the retirement system.

(2) ~~The~~ *Each* member's contribution to the retirement system ~~is 7.8%~~ *as a percentage* of the member's compensation *must be:*

(a) 7.8% for a member not covered under [section 3]; or

(b) 9% for a member covered under [section 3].

(3) If a member receives compensation under the provisions of the Workers' Compensation Act, Title 39, chapter 71, the amount received must be included as part of the member's compensation for purposes of determining contributions and service credits under the retirement system. Contributions made under 19-13-604, 19-13-605, and this section must be based on the total compensation received by the member from the employer and from workers' compensation during the period of disability.

(4) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code, as amended and applicable on July 1, 1987, shall pick up and pay the contributions that would be payable by the member under subsection (2) for service rendered after June 30, 1987.

(5) 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.

(6) 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 compensation as defined in 19-13-104. 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."

Section 30. Section 19-13-604, MCA, is amended to read:

"**19-13-604. State contribution.** The state shall make its contributions through the state auditor from the premium taxes on the insurance risks enumerated in 19-18-512. These payments must be made annually to the pension trust fund after the end of each fiscal year but no later than November 1 from the gross premium taxes after deduction for cancellations and returned premiums. The division shall notify the auditor of the annual compensation, excluding overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid to all active members during the preceding year. The state's contribution is ~~24.21%~~ *24.5%* of this total compensation. As soon as practicable after receipt of the state contribution, the division shall deposit it in the pension trust fund."

Section 31. Section 19-13-704, MCA, is amended to read:

"**19-13-704. Amount of service retirement benefit.** (1) *Except as provided in subsection (3), the following retirement benefits apply:*

(a) A member ~~hired before July 1, 1981,~~ who elects to retire after having reached 20 years of membership service must receive a service retirement benefit equal to the sum of:

(i) 50% of the member's last monthly compensation for years of service credit up to and including 20 years; and

(ii) 2% of the member's last monthly compensation for each year of service credit after 20 years.

(b) A member ~~hired before July 1, 1981,~~ who elects to retire after having reached at least 10 years but less than 20 years of membership service as an active member must receive a service retirement benefit equal to 2% of the member's last monthly compensation for each year of service credit. ~~Upon the retired member's death, the benefit must be made to the surviving spouse. If there is no surviving spouse or if the surviving spouse dies and if the member leaves one or more dependent children, the children are entitled to receive the allowance as long as they remain dependent children as defined in 19-13-104.~~

(2) A member hired on or after July 1, 1981, who retires with at least 10 years of membership service must receive a service retirement benefit equal to 2% of the member's final average compensation for each year of service credit.

(3) A member hired before July 1, 1981, and who is covered under [section 3] is entitled to the same benefit provided under subsection (1) or (2), except that the benefit must be calculated using final average compensation.

(4) Upon a retired member's death, the benefit must be made to the surviving spouse. If there is no surviving spouse or if the surviving spouse dies and if the

member leaves one or more dependent children, the children are entitled to receive the allowance as long as they remain dependent children as defined in 19-13-104."

Section 32. Section 19-13-803, MCA, is amended to read:

"**19-13-803. Amount of disability retirement benefit.** (1) ~~A~~ *Except as provided in subsection (3), the disability retirement benefit for a* member hired before July 1, 1981, who becomes disabled:

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

(b) after completing 20 years or more of membership service must ~~receive~~ *equal* the disability retirement benefit provided in subsection (1)(a) increased at a rate of 2% of the member's last monthly compensation for each year of service credit in excess of 20.

(2) ~~A~~ *Except as provided in subsection (3), the disability retirement benefit for a* member hired on or after July 1, 1981, who becomes disabled:

(a) before completing 25 years of membership service must ~~receive a disability retirement benefit~~ equal ~~to~~ one-half the member's last monthly compensation;

(b) after completing 25 years or more of membership service must ~~receive~~ *equal* the disability retirement benefit provided in subsection (2)(a) increased at a rate of 2% of the member's last monthly compensation for each year of service credit in excess of 25.

(3) A member covered under [section 3] is entitled to the same benefit as provided in subsection (1) or (2) except that the benefit must be calculated using final average compensation.

(4) A member's disability retirement benefit must be paid first to the member during the member's lifetime and, upon the member's death, to the member's surviving spouse. If upon a member's death the member leaves no surviving spouse or upon the death of the surviving spouse, the member's benefit must be paid to the member's dependent children as long as they remain dependent children as defined in 19-13-104."

Section 33. Section 19-13-902, MCA, is amended to read:

"**19-13-902. Survivorship benefit.** (1) ~~(a) Upon the death before retirement~~ *Except as provided in subsection (3), the survivorship benefits payable to the surviving spouse upon the death* of an active member hired before July 1, 1981, ~~the member's surviving spouse, if there is one, must receive a survivorship benefit equal to~~ *must be as follows:*

(a) one-half the last monthly compensation received by the member; *or*~~. If the member leaves one or more dependent children, then, upon the member's death if the member leaves no surviving spouse or upon the death of the surviving spouse, the member's dependent children must collectively receive the same benefit that a surviving spouse would have received, as long as the children remain dependent children as defined in 19-13-104.~~

(b) ~~If~~ *if* the deceased member completed over 20 years of membership service, the survivorship benefit provided in subsection (1)(a) ~~must be~~ increased at a rate of 2% of the last monthly compensation for each year *of service* in excess of 20.

(2) Upon the death before retirement of a member hired on or after July 1, 1981, the member's surviving spouse, if there is one, must receive a survivorship benefit equal to one-half of the member's final average compensation.

(3) The benefit payable to the surviving spouse upon the death of an active member covered under [section 3] must be the same as provided under subsection (1) or (2) except that the benefit must be calculated using final average compensation.

(4) If the member leaves one or more dependent children, then, upon the member's death if the member leaves no surviving spouse or upon the death of the surviving spouse, the member's dependent children must collectively receive the same benefit that a surviving spouse would have received, as long as the children remain dependent children as defined in 19-13-104."

Section 34. Section 19-13-1006, MCA, is amended to read:

"19-13-1006. Supplement to retirement benefits for persons retiring before July 1, 1973. (1) ~~The~~ *Except for persons who elect to be covered under [section 3], the* retirement system shall pay to each member retired before July 1, 1973, or the member's surviving spouse or dependent children a monthly retirement benefit of not less than one-half the regular monthly compensation paid to a confirmed active firefighter of the city that last employed the member as a firefighter, as provided each year in the budget of that city. If the city that last employed the member as a firefighter no longer employs a full-paid firefighter, the member's or survivor's benefit may not be less than one-half the average regular monthly compensation paid to all newly confirmed full-paid firefighters, as provided each year in the budgets of those cities that participate in the retirement system and employ a full-paid firefighter. In the case of volunteer firefighters, the retirement benefit may not exceed $75 per month. Distribution of the money provided for this purpose under 19-18-606(1) must be made according to subsection (2).

(2) (a) At the beginning of each fiscal year the division shall request and, except as provided in subsection (2)(b), the state auditor shall issue from the state special revenue fund and deliver to the division an amount certified to be equal to the total annual dollar difference between the total retirement benefits paid to all retirees or their surviving spouses or dependent children in the previous fiscal year and the total benefits payable on June 30, 1973. The division shall deposit this money into the pension trust fund.

(b) If insufficient money is contained in the state special revenue fund to pay the amount requested in subsection (2)(a), the auditor shall pay to the division the balance contained in the state special revenue fund. The division shall continue to request any portion of the amount requested under subsection (2)(a) not paid in previous fiscal years plus sufficient interest to reimburse the pension trust fund, which amounts must be paid to the division prior to determining whether sufficient cash remains in the special revenue fund to make any payments into the account established in 19-13-615. The auditor shall pay the requests as money in the state special revenue fund becomes available."

Section 35. Section 19-13-1007, MCA, is amended to read:

"**19-13-1007.** ~~**Benefit**~~ ***Minimum benefit*** **adjustment.** (1) ~~For~~ *Except for persons who elect to be covered under [section 3],* a member retiring on or after July 1, 1973, who was hired before July 1, 1981, or the member's surviving spouse or dependent children, the service retirement benefit provided in 19-13-704(1)(a), the disability retirement benefit provided in 19-13-803(1), and the survivorship benefit provided in 19-13-902(1) may not be less than one-half the monthly compensation paid to a newly confirmed, active firefighter of a city that last employed the member as a firefighter, as provided each year in the budget of that city.

(2) For a member hired on or after July 1, 1981, or the member's surviving spouse or dependent children, the disability retirement benefit provided in 19-13-803(2) and the survivorship benefit provided in 19-13-902(2) may not be less than one-half the monthly compensation paid to a newly confirmed, active firefighter of a city that last employed the member as a firefighter, as provided each year in the budget of that city.

(3) If after a member retires, the city that last employed the member no longer employs a full-paid firefighter, the member's or survivor's benefit under subsections (1) and (2) must be adjusted on the basis of the average monthly compensation paid to all newly confirmed full-paid firefighters, as provided each year in the budgets of those cities that participate in the retirement system and employ a full-paid firefighter.

(4) ~~If~~ *Except for persons who elect to be covered under [section 3], if* the employment of a vested member hired before July 1, 1981, is involuntarily discontinued because of the termination of employment of all full-paid firefighters in the city that employed the member, the member's service retirement benefit provided in 19-13-704(1)(b) and the member's spouse's or dependent child's survivorship benefit provided in 19-13-902(1) may not be less than:

(a) if the member has earned 20 years or more of membership service, one-half the average monthly compensation paid to all newly confirmed, full-paid firefighters, as provided each year in the budgets of those cities that participate in the retirement system and employ a full-paid firefighter; or

(b) if the member has earned more than 10 but less than 20 years of membership service, 2% of the average monthly compensation paid to all newly confirmed, full-paid firefighters, as provided each year in the budgets of those cities that participate in the retirement system and employ a full-paid firefighter, for each year of the member's service."

Section 36. Section 19-13-1009, MCA, is amended to read:

"**19-13-1009. Supplement to retirement benefits for persons hired on or after July 1, 1981.** (1) ~~The~~ *Except for persons who elect to be covered under [section 3], the* division shall pay a supplemental benefit from the account provided for in 19-13-615 to each member hired on or after July 1, 1981, who has earned 20 years of membership service as an active firefighter or to the member's surviving spouse or dependent children. Except as provided in subsection (2), the supplemental benefit, when added to the service retirement benefit, must equal one-half the regular monthly compensation paid to a newly confirmed full-paid active firefighter of the city that last employed the member as a firefighter as provided each year in the budget of that city. If after a member retires, the city that last employed the member no longer employs a full-paid firefighter, the member's supplemental benefit must be calculated on the basis of the average monthly compensation paid to all newly confirmed full-paid firefighters, as provided each year in the budgets of those cities that participate in the retirement system and employ a full-paid firefighter.

(2) If the amount available to the account is insufficient to fully fund the supplemental benefit provided for in subsection (1), the supplemental benefit for each eligible member or survivor must be reduced by an equal percentage so that the amount contained in the account is not exceeded."

Section 37. Section 25-1-201, MCA, is amended to read:

"**25-1-201. Fees of clerk of district court.** (1) The clerk of the district court shall collect the following fees:

(a) at the commencement of each action or proceeding, except a petition for dissolution of marriage, from the plaintiff or petitioner, $80; for filing a complaint in intervention, from the intervenor, $80; for filing a petition for dissolution of marriage, a fee of $120; and for filing a petition for legal separation, a fee of $120;

(b) from each defendant or respondent, on appearance, $60;

(c) on the entry of judgment, from the prevailing party, $45;

(d) for preparing copies of papers on file in the clerk's office, 50 cents ~~per~~ *a* page for the first five pages of each file, ~~per~~ *for each* request, and 25 cents ~~per~~ *for each* additional page;

(e) for each certificate, with seal, $2;

(f) for oath and jurat, with seal, $1;

(g) for search of court records, 50 cents for each year searched, not to exceed a total of $25;

(h) for filing and docketing a transcript of judgment or transcript of the docket from all other courts, the fee for entry of judgment provided for in subsection (1)(c);

(i) for issuing an execution or order of sale on a foreclosure of a lien, $5;

(j) for transmission of records or files or transfer of a case to another court, $5;

(k) for filing and entering papers received by transfer from other courts, $10;

(l) for issuing a marriage license, $30;

(m) on the filing of an application for informal, formal, or supervised probate or for the appointment of a personal representative or the filing of a petition for the appointment of a guardian or conservator, from the applicant or petitioner, $70, which includes the fee for filing a will for probate;

(n) on the filing of the items required in 72-4-303 by a domiciliary foreign personal representative of the estate of a nonresident decedent, $55;

(o) for filing a declaration of marriage without solemnization, $30;

(p) for filing a motion for substitution of a judge, $100.

(2) Except as provided in subsections (3) through (8), 32% of all fees collected by the clerk of the district court must be deposited in and credited to the district court fund. If no district court fund exists, that portion of the fees must be deposited in the general fund for district court operations. The remaining portion of the fees must be remitted to the state ~~to be deposited as provided in 19-5-404~~ *general fund*.

(3) In the case of a fee collected for issuing a marriage license or filing a declaration of marriage without solemnization, ~~$14~~ *$23.60* must be deposited in and credited to the state general fund~~,~~ *and* $6.40 must be deposited in and credited to the county general fund~~, and $9.60 must be remitted to the state to be deposited as provided in 19-5-404~~.

(4) Of the fee for filing a petition for dissolution of marriage or legal separation, ~~$40~~ *$75* must be deposited in the state general fund, ~~$35 must be remitted to the state to be deposited as provided in 19-5-404,~~ $5 must be deposited in the children's trust fund account established by 41-3-702, and $20 must be deposited in and credited to the district court fund. If no district court fund exists, the $20 must be deposited in the general fund for district court operations.

(5) (a) Before the percentages contained in subsection (2) are applied and the fees deposited in the district court fund or the county general fund or remitted to the state, the clerk of the district court shall deduct from the following fees the amounts indicated:

(i) at the commencement of each action or proceeding and for filing a complaint in intervention as provided in subsection (1)(a), $35;

(ii) from each defendant or respondent, on appearance, as provided in subsection (1)(b), $25;

(iii) on the entry of judgment as provided in subsection (1)(c), $15; and

(iv) from the applicant or petitioner, on the filing of an application for probate or for the appointment of a personal representative or on the filing of a petition for appointment of a guardian or conservator, as provided in subsection (1)(m), $15.

(b) The clerk of the district court shall deposit the money deducted in subsection (5)(a) in the county general fund for district court operations unless the county has a district court fund. If the county has a district court fund, the money must be deposited in that fund.

(6) The fee for filing a motion for substitution of a judge as provided in subsection (1)(p) must be remitted to the state ~~to be deposited as provided in 19-5-404~~ *general fund*.

(7) Fees collected under subsections (1)(d) through (1)(i) must be deposited in the district court fund. If no district court fund exists, fees must be deposited in the general fund for district court operations.

(8) The clerk of the district court shall remit to the credit of the state general fund $20 of each fee collected under the provisions of subsections (1)(a) through (1)(c), (1)(m), and (1)(n) to fund a portion of judicial salaries."

Section 38. Repealer. Sections 19-3-1601, 19-3-1602, 19-3-1603, 19-7-708, 19-7-709, 19-7-710, 19-8-1101, 19-8-1102, and 19-8-1103, MCA, are repealed.

Section 39. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 19, chapters 3, 7, and 8, and the provisions of Title 19, chapters 3, 7, and 8, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 19, chapter 5, and the provisions of Title 19, chapter 5, apply to [section 2].

(3) [Section 3] is intended to be codified as an integral part of Title 19, chapters 2, 6, 9, and 13, and the provisions of Title 19, chapters 2, 6, 9, and 13, apply to [section 3].

(4) [Section 4] is intended to be codified as an integral part of Title 19, chapter 3, and the provisions of Title 19, chapter 3, apply to [section 4].

(5) [Section 5] is intended to be codified as an integral part of Title 19, chapter 2, and the provisions of Title 19, chapter 2, apply to [section 5].

Section 40. Effective date. [This act] is effective July 1, 1997.

Approved April 17, 1997

CHAPTER NO. 288

[HB 384]

AN ACT EXCLUDING FROM INHERITANCE TAXES ANY INTEREST IN AND THE REAL PROPERTY AND TANGIBLE PERSONAL PROPERTY OF CLOSELY HELD BUSINESSES THAT ARE TRANSFERRED TO THE LINEAL DESCENDANTS OF THE DECEDENT'S GRANDPARENTS; AMENDING SECTIONS 72-16-101, 72-16-453, AND 72-16-455, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

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

Section 1. Exemption for closely held business property. (1) The value of any interest in a closely held business represented by real property and tangible personal property and all real property and tangible personal property of a closely held business, as defined in 72-16-453, that is transferred to the lineal descendants of the decedent's grandparents is exempt from the tax imposed under parts 1 through 8.

(2) Property owned by a closely held business is considered as being owned proportionately by or for its shareholders, partners, or owners.

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COUNSEL FOR DEFENDANTS

MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY

ASSOCIATION OF MONTANA RETIRED PUBLIC EMPLOYEES, RUSSELL WRIGG, MARLYS HURLBERT, CAROLE CAREY, I. EDWARD SONDENO, Plaintiffs, v. STATE OF MONTANA, MONTANA PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION, PUBLIC EMPLOYEE RETIREMENT BOARD, GOVERNOR STEVE BULLOCK, in his official capacity, Defendants.	Cause No. CDV-2013-788 **DEFENDANTS' RESPONSE TO PLAINTIFFS' FIRST SET OF DISCOVERY REQUESTS**

REQUEST FOR ADMISSION NO. 1: Please admit that HB 454 of the 2013 Legislative Session as originally introduced did not reduce the Guaranteed Annual Benefit Adjustment ("GABA").

RESPONSE: Admit.

EXHIBIT
4

members of the defined benefit retirement plan.

REQUEST FOR ADMISSION NO. 22: Please admit that Plaintiff I. Edward Sondeno paid the full actuarial cost to receive a 3% GABA.

RESPONSE: Admit that the purchase price for service credit assumed a 3% annual adjustment.

REQUEST FOR ADMISSION NO. 23: Please admit that any PERS member who purchased additional service credit pursuant to Mont. Code Ann. § 19-3-513 from July 1, 2001 through June 30, 2013, paid the full actuarial cost to receive a 3% GABA.

RESPONSE: Deny. If hired on or after July 1, 2007, the purchase price for service credit assumed a 1.5% annual adjustment. It is also unclear what you mean by "the full actuarial cost to receive a 3% GABA."

REQUEST FOR ADMISSION NO. 24: Please admit that the "Statement of Intent" of HB 170 of the Session Laws of 1997, which initially implemented GABA, states "the bill provides that the GABA be substituted for other benefits in cases in which the GABA is as valuable or more valuable to members".

RESPONSE: Admit.

REQUEST FOR ADMISSION NO. 25: Please admit that Mont. Code Ann. § 19-3-2106 expressly states that members of the defined contribution plan or the university system retirement program do not have a contract right to the specific terms and conditions specified in statute on the date the employee's choice of retirement system becomes effective.

superintendent of public instruction for the support of adult basic education programs in any school ~~or~~, community college district, *or accredited tribal college located in Montana.*

(2) The superintendent of public instruction shall direct the distribution of funds appropriated by the legislature for adult basic education. The trustees of any district *or tribal college* may apply to the superintendent for funds for its adult basic education courses. The financial administration and accounting of adult basic education funds ~~shall~~ *must* be the same as that of adult education."

Section 2. Notification to tribal governments and tribal colleges. The secretary of state shall send a copy of [this act] to each tribal government and to the president of each tribal college located on the seven Montana reservations.

Section 3. Effective date. [This act] is effective July 1, 2001.

Approved March 29, 2001

CHAPTER NO. 149

[HB 294]

AN ACT RELATING TO PUBLIC EMPLOYEE RETIREMENT SYSTEM BENEFITS; AMENDING DEFINITIONS; PROVIDING FOR A PURCHASING POWER ADJUSTMENT IN BENEFITS PAID BY THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; REQUIRING AN INCREASE IN THE GUARANTEED ANNUAL BENEFIT ADJUSTMENT FOR MEMBERS OF CERTAIN PUBLIC EMPLOYEE RETIREMENT SYSTEMS; PROVIDING AN ELECTION BETWEEN THE GUARANTEED ANNUAL BENEFIT ADJUSTMENT AND OTHER ADJUSTMENTS IN RETIREMENT BENEFIT FOR MEMBERS OF CERTAIN PUBLIC EMPLOYEE RETIREMENT SYSTEMS; INCREASING THE MINIMUM MONTHLY BENEFIT ALLOWANCE FOR RETIREES AND BENEFICIARIES OF THE TEACHERS' RETIREMENT SYSTEM; AUTHORIZING UPON CERTAIN CONDITIONS AN INCREASE IN THE GUARANTEED ANNUAL BENEFIT ADJUSTMENT FOR THE TEACHERS' RETIREMENT SYSTEM; AMENDING SECTIONS 19-2-303, 19-3-108, 19-3-1605, 19-5-901, 19-6-101, 19-6-710, 19-7-101, 19-7-711, 19-8-101, 19-8-1105, 19-9-1009, 19-9-1010, 19-13-1010, 19-20-622, AND 19-20-719, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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. (Temporary) 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 system, 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.

EXHIBIT 5

(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 ~~1971 Group Annuity Mortality Table, with ages set back 4 years and an interest rate of 8% compounded annually~~ *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 retirement system over the present value of future normal costs in that retirement system.

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

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

(8) "Annuity" means equal and fixed payments for life that are the actuarial equivalent of a lump-sum payment under a retirement system and as such are not benefits paid by a retirement system and are not subject to periodic or one-time increases.

(9) "Benefit" means the service or disability retirement or survivorship benefit payment provided by a retirement system.

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

(11) "Contingent annuitant" means a person designated to receive a continuing monthly benefit after the death of a retired member.

(12) "Credited service" or "service credit" means the periods of time for which the required contributions have been made to a retirement system and that are used to calculate service or disability retirement or survivorship benefits under a retirement system.

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

(14) "Designated beneficiary" means the person designated by a member or payment recipient to receive any survivorship benefits or lump-sum payments upon the death of the member or payment recipient, including annuities derived from the benefits or payments.

(15) "Disability" 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.

(16) "Employee" means a person who is employed by an employer in any capacity and whose salary is being paid by the employer.

(17) "Employer" means a governmental entity participating in a retirement system enumerated in 19-2-302 on behalf of its eligible employees.

(18) "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.

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

(20) "Inactive member" means a member who is not an active or retired member.

(21) "Internal Revenue Code" means the federal Internal Revenue Code of 1954 or 1986, as applicable to a retirement system, as that code provided on July 1, 1999.

(22) "Member" means any person with accumulated contributions and service credited with a retirement system or receiving a retirement benefit on account of the person's previous service credited in a retirement system.

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

(24) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost method required to fund accruing benefits for members of a retirement system during any year in the future. Normal cost does not include any portion of the supplemental costs of a retirement system.

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

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

(27) "Regular contributions" means contributions required from members under a retirement system.

(28) "Regular interest" means interest at the rate set from time to time by the board.

(29) "Retirement" or "retired" means the status of a member who has been terminated from service for at least 30 days and has received and accepted a retirement benefit from a retirement system.

(30) "Retirement benefit" means the periodic benefit payable as a result of service, early, or disability retirement under a retirement system. An annuity is not a retirement benefit.

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

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

(33) "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.

(34) "Supplemental cost" means an element of the total actuarial cost of a retirement system arising from benefits payable for service performed prior to the inception of the retirement system 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 system.

(35) "Survivorship benefit" means payments for life to the statutory or designated beneficiary of a deceased member who died while in service under a retirement system.

(36) "Termination of employment" or "termination of service" means that the member has severed the employment relationship with the employer and has been paid all compensation due upon termination of employment, including but not limited to payment of accrued annual leave credits, as provided in 2-18-617, and payment of accrued sick leave credits, as provided in 2-18-618. For purposes of this subsection, compensation as a result of legal action, court order, appeal, or settlement to which the board was not party is not a payment due upon termination.

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

(38) "Vested member" or "vested" means a member or the status of a member who has attained the minimum membership service requirements to be eligible for retirement benefits under a retirement system.

(39) "Written application" means a written instrument, specified by the board, properly executed, and filed with the board, that contains all the information required by the board, including documentation that the board considers necessary.

19-2-303. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) Definitions. Unless the context requires otherwise, for each of the retirement systems subject to this chapter, the following definitions apply:

(1) "Account balance" means all contributions, income, and other assets in a retirement account that have, pursuant to 19-3-2116, vested to a member of the defined contribution plan.

(2) "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.

(3) "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.

(4) "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.

(5) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the ~~1971 Group Annuity Mortality Table, with ages set back 4~~

~~years and an interest rate of 8% compounded annually~~ *mortality table and interest rate assumptions adopted by the board.*

(6) "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.

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

(8) "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.

(9) "Annuity" means:

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

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

(10) "Benefit" means:

(a) the service 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 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 person designated to 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) "Credited service" or "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 service or disability retirement or survivorship benefits under a defined benefit retirement plan.

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

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

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

(19) "Designated beneficiary" means the 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.

(20) "Disability" 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) "Employee" means a person who is employed by an employer in any capacity and whose salary is being paid by the employer.

(22) "Employer" means a governmental entity participating in a retirement system enumerated in 19-2-302 on behalf of its eligible employees.

(23) "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.

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

(25) "Inactive member" means a member who is not an active or retired member.

(26) "Internal Revenue Code" means the federal Internal Revenue Code of 1954 or 1986, as applicable to a retirement system, as that code provided on July 1, 1999.

(27) "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.

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

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

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

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

(32) "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.

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

(34) "Regular interest" means interest at the rate set from time to time by the board.

(35) "Retirement" or "retired" means the status of a member who has been terminated from service for at least 30 days and has received and accepted a retirement benefit from a retirement plan.

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

(37) "Retirement benefit" means:

(a) in the case of a defined benefit plan, the periodic benefit payable as a result of service, early, 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).

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

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

(40) "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.

(41) "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.

(42) "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.

(43) "Termination of employment" or "termination of service" means that the member has severed the employment relationship with the employer and has been paid all compensation due upon termination of employment, including but not limited to payment of accrued annual leave credits, as provided in 2-18-617, and payment of accrued sick leave credits, as provided in 2-18-618. For purposes of this subsection, compensation as a result of legal action, court order, appeal, or settlement to which the board was not party is not a payment due upon termination.

(44) "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.

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

(a) with respect to a defined benefit plan, a member or the status of a member who has attained the minimum membership service requirements to be eligible for retirement benefits under the retirement plan; or

(b) with respect to the defined contribution plan, a member or the status of a member who, pursuant to 19-3-2116, is entitled to employer contributions and income on those contributions in the member's retirement account.

(46) "Written application" means a written instrument, specified by the board, properly executed, and filed with the board, that contains all the information required by the board, including documentation that the board considers necessary."

Section 2. Section 19-3-108, MCA, is amended to read:

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

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

(b) Compensation does not include*:*

(i) the payments or contributions made in lieu of wages for an individual subject to 19-3-403(4)(a)*;*

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

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

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

(v) lump-sum payments for compensatory leave, sick leave, or annual leave paid without termination of employment.

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

(3) "Employer" means the state of Montana, its university system or any of the colleges, schools, components, or units of the university system for the purposes of this chapter, or any contracting employer, except that a nonprofit mental health corporation established pursuant to 53-21-204 may not be an employer with regard to employees hired after June 30, 1999.

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

(5) "Final average salary" means a member's highest average monthly compensation during any 36 consecutive months of membership service.

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

19-3-108. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) Definitions. Unless the context requires otherwise, as used in this chapter, the following definitions apply:

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

(b) Compensation does not include:

(i) the payments or contributions made in lieu of wages for an individual subject to 19-3-403(4)(a);

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

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

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

(v) lump-sum payments for compensatory leave, sick leave, or annual leave paid without termination of employment.

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

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

(4) "Employer" means the state of Montana, its university system or any of the colleges, schools, components, or units of the university system for the purposes of this chapter, or any contracting employer, except that a nonprofit mental health corporation established pursuant to 53-21-204 may not be an employer with regard to employees hired after June 30, 1999.

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

(6) "Final average salary" means a member's highest average monthly compensation during any 36 consecutive months of membership service. Lump-sum payments for severance pay, *including payment for compensatory leave*, sick leave, and annual leave, paid to the member upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the regular compensation for a month or months included in the calculation of the final average salary. A lump-sum payment may not be added to a single month's compensation.

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

Section 3. Section 19-3-1605, MCA, is amended to read:

"19-3-1605. Guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by ~~1.5%~~ *3%*.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a ~~1.5%~~ *3%* annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of ~~1.5%~~ *3%* in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a ~~1.5%~~ *3%* annualized increase, then the benefit increase provided under this section must be 0%.

(c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the original payee that occurred since the preceding January, the new recipient's monthly benefit must be increased to ~~1.5%~~ *3%* more than the amount that the contingent annuitant would have received had the contingent annuitant received a benefit during the preceding January.

(3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made; and

(b) the benefit recipient is not an active member of a public retirement system covered by this title.

(4) The board shall adopt rules to administer the provisions of this section."

Section 4. Purchasing power adjustment. Beginning with the July 2001 benefit, the board shall provide an ad hoc benefit increase to retired members and beneficiaries of the retirement system receiving a monthly retirement benefit. The ad hoc benefit increase must be calculated by the board actuary and approved by the board. The benefit increase must be designed to bring the benefit recipient's current benefit up to a level estimated to be no less than 75% of the purchasing power of the original recipient's initial monthly benefit. Purchasing power must be calculated considering the date that the first benefit was paid to the original benefit recipient, applicable benefit increases since that date, and a comparison with the consumer price index for urban wage earners and workers, compiled by the bureau of labor statistics of the United States department of labor since the date the first benefit was paid to the original benefit recipient.

Section 5. Section 19-5-901, MCA, is amended to read:

"19-5-901. Guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by ~~1.5%~~ *3%*.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a ~~1.5%~~ *3%* annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of ~~1.5%~~ *3%* in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a ~~1.5%~~ *3%* annualized increase, then the benefit increase provided under this section must be 0%.

(c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the original payee that occurred since the preceding January, the new recipient's monthly benefit must be increased to ~~1.5%~~ *3%* more than the amount that the contingent annuitant would have received had the contingent annuitant received a benefit during the preceding January.

(3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made;

(b) the benefit recipient is not an active member of a public retirement system covered by this title; and

(c) the member or benefit recipient either:

(i) first became an active member on or after July 1, 1997; or

(ii) filed a voluntary, irrevocable election to be covered under this section. The election must be filed with the board prior to January 1, 1998.

(4) The board shall adopt rules to administer the provisions of this section."

Section 6. Election — guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 3%.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 3% in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a 3% annualized increase, then the benefit increase provided under this section must be 0%.

(3) A benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made; and

(b) the member either:

(i) first became an active member on or after July 1, 1997; or

(ii) filed a voluntary, irrevocable election to be covered under this section. The election:

(A) must be filed with the board prior to December 1, 2001; and

(B) requires an active member to pay an increased or revised contribution rate from January 1, 2002, forward.

(4) The board shall adopt rules to administer the provisions of this section.

(5) The decision of a member who elected to participate under 19-5-901 remains valid. The decision of a member who elected not to participate under 19-5-901 may be reversed under this section.

Section 7. Section 19-6-101, MCA, is amended to read:

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

(1) "Compensation" means remuneration paid for services to a member out of funds controlled by an employer before any pretax deductions allowed by the Internal Revenue Code have been made and exclusive of maintenance, allowances, and expenses.

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

(a) under 18 years of age; or

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

(3) "Final average salary" means the average monthly compensation received by a member for any 3 years of continuous service upon which contributions have been made or, in the event a member has not served 3 years, the total compensation earned divided by the number of months served. Lump-sum payments for severance pay, *including payment for compensatory leave,* sick leave, and annual leave, paid to an employee upon termination of service may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a month or months included in the calculation of the final average salary. A lump-sum payment may not be added to a single month's compensation.

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

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

Section 8. Section 19-6-710, MCA, is amended to read:

"19-6-710. Guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by ~~1.5%~~ *3%*.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a ~~1.5%~~ *3%* annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of ~~1.5%~~ *3%* in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a ~~1.5%~~ *3%* annualized increase, then the benefit increase provided under this section must be 0%.

(3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made;

(b) the benefit recipient is not an active member of a public retirement system covered by this title; and

(c) the member either:

(i) first became an active member on or after July 1, 1997; or

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

(4) The board shall adopt rules to administer the provisions of this section."

Section 9. Election — guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 3%.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 3% in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a 3% annualized increase, then the benefit increase provided under this section must be 0%.

(3) A benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made; and

(b) the member either:

(i) first became an active member on or after July 1, 1997; or

(ii) filed a voluntary, irrevocable election to be covered under this section. The election:

(A) must be filed with the board prior to December 1, 2001; and

(B) requires an active member to pay an increased or revised contribution rate from January 1, 2002, forward.

(4) The board shall adopt rules to administer the provisions of this section.

(5) The decision of a member who elected to participate under 19-6-710 remains valid. The decision of a member who elected not to participate under 19-6-710 may be reversed under this section.

Section 10. Section 19-7-101, MCA, is amended to read:

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

(1) "Compensation" means remuneration paid for services to a member out of funds controlled by an employer before any pretax deductions allowed by the Internal Revenue Code are made and exclusive of maintenance, allowances, and expenses.

(2) "Final average salary" means the average monthly compensation received by a member for any 3 years of continuous service from which contributions were deducted or, in the event that a member has not served 3 years, the total compensation earned divided by the number of months served. Lump-sum payments for *severance pay, including payment for compensatory leave,* sick leave, and annual leave, paid to an employee upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a month or months included in the calculation of the final average salary. A lump-sum payment may not be added to a single month's compensation.

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

(4) "Sheriff" means any elected or appointed county sheriff or undersheriff or any appointed, lawfully trained, appropriately salaried, and regularly acting deputy sheriff. The board shall adopt rules incorporating both the peace officers standards and training council's current law enforcement training requirements and the legislatively authorized salary requirements as effective for deputy sheriffs who are eligible for membership in this retirement system."

Section 11. Section 19-7-711, MCA, is amended to read:

"19-7-711. Guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by ~~1.5%~~ *3%*.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a ~~1.5%~~ *3%* annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of ~~1.5%~~ *3%* in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a ~~1.5%~~ *3%* annualized increase, then the benefit increase provided under this section must be 0%.

(c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the original payee that occurred since the preceding January, the new recipient's monthly benefit must be increased to ~~1.5%~~ *3%* more than the amount that the contingent annuitant would have received had the contingent annuitant received a benefit during the preceding January.

(3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made; and

(b) the benefit recipient is not an active member of a public retirement system covered by this title.

(4) The board shall adopt rules to administer the provisions of this section."

Section 12. Section 19-8-101, MCA, is amended to read:

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

(1) "Compensation" means remuneration paid for services to a member out of funds controlled by an employer before any pretax deductions allowed by the Internal Revenue Code are made and exclusive of maintenance, allowances, and expenses.

(2) "Final average salary" means the average monthly compensation received by a member for any 3 years of continuous service upon which contributions were made or, in the event a member has not served 3 years, the total compensation earned divided by the number of months served. Lump-sum payments for severance pay, *including payment for compensatory leave,* sick leave, and annual leave, paid to an employee upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a month or months included in the calculation of the final average salary. A lump-sum payment may not be added to a single month's compensation.

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

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

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

Section 13. Section 19-8-1105, MCA, is amended to read:

"19-8-1105. Guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by ~~1.5%~~ *3%*.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a ~~1.5%~~ *3%* annualized increase, then the

recipient's benefit must be adjusted by an amount that will provide a total annualized increase of ~~1.5%~~ *3%* in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a ~~1.5%~~ *3%* annualized increase, then the benefit increase provided under this section must be 0%.

(c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the original payee that occurred since the preceding January, the new recipient's monthly benefit must be increased to ~~1.5%~~ *3%* more than the amount that the contingent annuitant would have received had the contingent annuitant received a benefit during the preceding January.

(3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made; and

(b) the benefit recipient is not an active member of a public retirement system covered by this title.

(4) The board shall adopt rules to administer the provisions of this section."

Section 14. Section 19-9-1009, MCA, is amended to read:

"**19-9-1009. Guaranteed annual benefit adjustment.** (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by ~~1.5%~~ *3%*.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a ~~1.5%~~ *3%* annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of ~~1.5%~~ *3%* in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a ~~1.5%~~ *3%* annualized increase, then the benefit increase provided under this section must be 0%.

(3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made;

(b) the benefit recipient is not an active member of a public retirement system covered by this title; and

(c) the member either:

(i) first became an active member on or after July 1, 1997; or

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

(4) The board shall adopt rules to administer the provisions of this section."

Section 15. Section 19-9-1010, MCA, is amended to read:

"**19-9-1010. Election — guaranteed annual benefit adjustment.** (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by ~~1.5%~~ *3%*.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a ~~1.5%~~ *3%* annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of ~~1.5%~~ *3%* in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a ~~1.5%~~ *3%* annualized increase, then the benefit increase provided under this section must be 0%.

(3) A benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made; and

(b) the member either:

(i) first became an active member on or after July 1, 1997; or

(ii) filed a voluntary, irrevocable election to be covered under this section. The election:

(A) must be filed with the board prior to December 1, 1999; and

(B) requires an active member to pay an increased or revised contribution rate from January 1, 2000, forward.

(4) The board shall adopt rules to administer the provisions of this section.

(5) The decision of a member who elected to participate under 19-9-1009 remains valid. The decision of a member who elected not to participate under 19-9-1009 may be reversed under this section."

Section 16. Election — guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 3%.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 3% in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a 3% annualized increase, then the benefit increase provided under this section must be 0%.

(3) A benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made; and

(b) the member either:

(i) first became an active member on or after July 1, 1997; or

(ii) filed a voluntary, irrevocable election to be covered under this section. The election:

(A) must be filed with the board prior to December 1, 2001; and

(B) requires an active member to pay an increased or revised contribution rate from January 1, 2002, forward.

(4) The board shall adopt rules to administer the provisions of this section.

(5) The decision of a member who elected to participate under 19-9-1009 or 19-9-1010 remains valid. The decision of a member who elected not to participate under 19-9-1009 and 19-9-1010 may be reversed under this section.

Section 17. Section 19-13-1010, MCA, is amended to read:

"**19-13-1010. Guaranteed annual benefit adjustment.** (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by ~~1.5%~~ *3%*.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a ~~1.5%~~ *3%* annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of ~~1.5%~~ *3%* in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a ~~1.5%~~ *3%* annualized increase, then the benefit increase provided under this section must be 0%.

(3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made;

(b) the benefit recipient is not an active member of a public retirement system covered by this title; and

(c) the member either:

(i) first became an active member on or after July 1, 1997; or

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

(4) The board shall adopt rules to administer the provisions of this section."

Section 18. Election — guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 3%.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 3% in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a 3% annualized increase, then the benefit increase provided under this section must be 0%.

(3) A benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made; and

(b) the member either:

(i) first became an active member on or after July 1, 1997; or

(ii) filed a voluntary, irrevocable election to be covered under this section. The election:

(A) must be filed with the board prior to December 1, 2001; and

(B) requires an active member to pay an increased or revised contribution rate from January 1, 2002, forward.

(4) The board shall adopt rules to administer the provisions of this section.

(5) The decision of a member who elected to participate under 19-13-1010 remains valid. The decision of a member who elected not to participate under 19-13-1010 may be reversed under this section.

Section 19. Section 19-20-622, MCA, is amended to read:

"**19-20-622. Minimum monthly benefit allowance.** (1) A retired member of the retirement system who on July 1, ~~1999~~ *2001*, is receiving a service or disability retirement allowance that is less than ~~$500~~ *$600* is eligible to receive a minimum monthly benefit allowance of ~~$500~~ *$600* if the member at the time of retirement had 25 years or more of creditable service.

(2) A beneficiary or beneficiaries of a deceased retired member who on July 1, ~~1999~~ *2001*, are receiving an optional service, disability, or survivorship allowance that when added together are less than ~~$500~~ *$600* are eligible to receive a proportional share of a minimum monthly benefit allowance of ~~$500~~ *$600* if the retired member at the time of retirement had 25 years or more of creditable service.

(3) If on July 1, ~~1999~~ *2001*, multiple beneficiaries are receiving benefits under a retired member's account, the minimum monthly benefit must be divided in the same proportion as was the initial service, disability, or survivorship allowance."

Section 20. Section 19-20-719, MCA, is amended to read:

"19-20-719. Guaranteed annual benefit adjustment — rulemaking. (1) ~~On~~ *Subject to subsection (3), on* January 1 of each year, the retirement allowance payable to each recipient who is eligible under subsection (2) must be increased by 1.5%.

(2) A benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if the retiree's most recent retirement effective date is at least 36 months prior to January 1 of the year in which the adjustment is to be made.

(3) On January 1, 2002, and January 1 of each year following the system's biennial valuation, the board may increase the annual benefit adjustment provided in subsection (1) until a maximum of 3% is guaranteed if:

(a) the period required to amortize the system's actuarial unfunded liability, as determined by the most recent biennial valuation, adjusted for any benefit enhancement enacted by the legislature since the most recent biennial valuation, is less than 25 years;

(b) sufficient funds are available to increase the guaranteed annual benefit adjustment by at least 0.1%; and

(c) the increase granted by the board would not cause the amortization period, as of the most recent valuation, to exceed 25 years.

(4) The board shall adopt rules to administer the provisions of this section."

Section 21. Codification instruction. (1) [Section 4] is intended to be codified as an integral part of Title 19, chapter 3, part 16, and the provisions of Title 19, chapter 3, part 16, apply to [section 4].

(2) [Section 6] is intended to be codified as an integral part of Title 19, chapter 5, part 9, and the provisions of Title 19, chapter 5, part 9, apply to [section 6].

(3) [Section 9] is intended to be codified as an integral part of Title 19, chapter 6, part 7, and the provisions of Title 19, chapter 6, part 7, apply to [section 9].

(4) [Section 16] is intended to be codified as an integral part of Title 19, chapter 9, part 10, and the provisions of Title 19, chapter 9, part 10, apply to [section 16].

(5) [Section 18] is intended to be codified as an integral part of Title 19, chapter 13, part 10, and the provisions of Title 19, chapter 13, part 10, apply to [section 18].

Section 22. Effective date. [This act] is effective on passage and approval.

Approved March 29, 2001

(4) (a) The board may designate a veterans' cemetery established pursuant to [section 1 of Senate Bill No. 21] as a state veterans' cemetery if:

(i) the legislature has authorized the cemetery pursuant to subsection (2) or (3); and

(ii) the board certifies that the cemetery is operated and maintained under the same standards and interment eligibility criteria as required for a state veterans' cemetery established by the board.

(b) A cemetery designated under this subsection (4) as a state veterans' cemetery must be recognized and identified as a state veterans' cemetery on official state maps, in other appropriate state publications and websites, and on appropriate state road signs."

Section 2. Appropriation. There is appropriated $1 from the general fund to the department of military affairs for fiscal year 2008.

Section 3. Contingent voidness. If Senate Bill No. 21 is not passed and approved, then [this act] is void.

Section 4. Effective date. [This act] is effective July 1, 2007.

Approved May 3, 2007

CHAPTER NO. 371

[HB 131]

AN ACT REVISING PUBLIC RETIREMENT LAWS; PROVIDING FOR THE ACTUARIAL FUNDING OF THE PUBLIC EMPLOYEES' AND SHERIFFS' RETIREMENT SYSTEMS BY INCREASING EMPLOYER CONTRIBUTION RATES; PROVIDING THAT THE INCREASE WILL NOT BE IMPOSED IF CERTAIN ACTUARIAL CONDITIONS ARE MET; ALLOCATING A PORTION OF THE EMPLOYER CONTRIBUTION IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM DEFINED CONTRIBUTION PLAN TO PAY FOR THE PLAN'S STARTUP LOAN; REDUCING THE GUARANTEED ANNUAL BENEFIT ADJUSTMENT FOR MEMBERS OF THE PUBLIC EMPLOYEES', SHERIFFS', AND GAME WARDENS' AND PEACE OFFICERS' RETIREMENT SYSTEMS HIRED OR ASSUMING OFFICE ON OR AFTER JULY 1, 2007; INCREASING THE STATUTORY APPROPRIATION FOR STATE RETIREMENT CONTRIBUTIONS FOR EMPLOYEES OF SCHOOL DISTRICTS; PROVIDING APPROPRIATIONS; AMENDING SECTIONS 19-3-316, 19-3-319, 19-3-1605, 19-3-2117, 19-7-404, 19-7-711, 19-8-1105, AND 19-21-214, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 19-3-316, MCA, is amended to read:

"**19-3-316. Employer contribution rates.** (1) Each employer shall contribute to the system. Except as provided in subsection (2), the employer shall pay as employer contributions 6.9% of the compensation paid to all of the employer's employees *plus any additional contribution under subsection (3),* except *for* those *employees* properly excluded from membership. Of employer contributions made under this subsection for both defined benefit plan and defined contribution plan members, a portion must be allocated for educational

EXHIBIT

6

programs as provided in 19-3-112. Employer contributions for members under the defined contribution plan must be allocated as provided in 19-3-2117.

(2) Local government and school district employer contributions must be the total employer contribution rate provided in subsection (1) minus the state contribution ~~rate~~ *rates* under 19-3-319.

(3) Subject to subsection (4), each employer shall contribute to the system an additional employer contribution equal to the following percentage of the compensation paid to all of the employer's employees, except for those employees properly excluded from membership:

(a) beginning July 1, 2007, 0.135%; and

(b) beginning July 1, 2009, 0.27%.

(4) (a) The board shall periodically review the additional employer contribution provided for under subsection (3) and recommend adjustments to the legislature as needed to maintain the amortization schedule set by the board for payment of the system's unfunded liabilities.

(b) The employer contribution required under subsection (3) terminates on July 1 immediately following the system's actuarial valuation if:

(i) the actuarial valuation determines that the period required to amortize the system's unfunded liabilities, including adjustments made for any benefit enhancements enacted by the legislature after the valuation, is less than 25 years; and

(ii) terminating the additional employer contribution would not cause the amortization period as of the most recent actuarial valuation to exceed 25 years."

Section 2. Section 19-3-319, MCA, is amended to read:

"**19-3-319. State contributions for local government and school district employers.** *(1)* The state shall contribute monthly from the general fund to the pension trust fund a sum equal to 0.1% of the compensation paid to all employees of local government entities and school districts on and after July 1. 1997, except those *employees* properly excluded from membership.

(2) (a) Subject to subsection (2)(b), in addition to the contribution required under subsection (1), the state shall contribute monthly from the general fund to the pension trust fund a sum equal to the following percentage of the compensation paid to all employees of school districts on and after July 1, 2007, except for those employees properly excluded from membership:

(i) beginning July 1, 2007, 0.135%; and

(ii) beginning July 1, 2009, 0.27%.

(b) The additional contribution under subsection (2)(a) terminates when the additional contribution under 19-3-316(3) terminates.

(3) The board shall certify amounts due under this section on a monthly basis, and the state treasurer shall transfer those amounts to the pension trust fund within 1 week. The ~~payment is~~ *payments in this section are* statutorily appropriated as provided in 17-7-502."

Section 3. Section 19-3-1605, MCA, is amended to read:

"**19-3-1605. Guaranteed annual benefit adjustment.** (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by ~~3%~~ *the applicable percentage provided in subsection (4)*.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than ~~a 3%~~ *an* annualized increase *of the applicable percentage provided in subsection (4)*, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of ~~3%~~ *the applicable percentage* in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than ~~a 3%~~ *an* annualized increase *of the applicable percentage provided in subsection (4)*, then the benefit increase provided under this section must be 0%.

(c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the original payee that occurred since the preceding January, the new recipient's monthly benefit must be increased to ~~3%~~ *the applicable percentage provided in subsection (5)* more than the amount that the contingent annuitant would have received had the contingent annuitant received a benefit during the preceding January.

(3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if the benefit's commencement date is at least 12 months prior to January 1 of the year in which the adjustment is to be made.

(4) (a) The applicable percentage is 3% for benefit recipients hired or assuming office:

(i) before July 1, 2007; or

(ii) on or after July 1, 2007, if the benefit recipient is an existing member of a benefit plan for which the applicable percentage is 3%.

(b) Except as provided in subsection (4)(a)(ii), the applicable percentage is 1.5% for benefit recipients hired or assuming office on or after July 1, 2007.

(5) (a) The applicable percentage rate for a contingent annuitant described in subsection (2)(c) is 3% if the original payee:

(i) was hired or assumed office before July 1, 2007; or

(ii) was an existing member of a benefit plan for which the applicable percentage is 3%.

(b) Except as provided in subsection (5)(a)(ii), the applicable percentage rate for a contingent annuitant described in subsection (2)(c) is 1.5% if the original payee was hired or assumed office on or after July 1, 2007.

~~(4)~~*(6)* The board shall adopt rules to administer the provisions of this section."

Section 4. Section 19-3-2117, MCA, is amended to read:

"**19-3-2117. Allocation of contributions and forfeitures.** (1) The member contributions made under 19-3-315 and additional contributions paid by the member for the purchase of service must be allocated to the plan member's retirement account.

(2) Subject to adjustment by the board as provided in 19-3-2121, of the employer contributions under 19-3-316 *received* ~~received~~:

(a) ~~on or after July 1, 2002,~~ an amount equal to:

~~(a)~~*(i)* 4.19% of compensation must be allocated to the member's retirement account;

~~(b)~~*(ii)* 2.37% of compensation must be allocated to the defined benefit plan as the plan choice rate;

~~(c)~~*(iii)* 0.04% of compensation must be allocated to the education fund as provided in 19-3-112(1)(b); and

~~(d)~~*(iv)* 0.3% of compensation must be allocated to the long-term disability plan trust fund established pursuant to 19-3-2141*; and*

(b) on July 1, 2007, through June 30, 2009, 0.135% of compensation and on July 1, 2009, continuing until the additional employer contributions terminate pursuant to 19-3-316, 0.27% of compensation must be allocated in the following order:

(i) to the administrative account used by the board to meet the expenses of the plan's startup loan, until paid in full;

(ii) to the defined benefit plan to eliminate the plan choice rate unfunded actuarial liability; and

(iii) to the long-term disability plan trust fund to provide disability benefits to eligible members.

(3) Forfeitures of employer contributions and investment income on the employer contributions may not be used to increase a member's retirement account. The board shall allocate the forfeitures under 19-3-2116 to meet the plan's administrative expenses, including startup expenses."

Section 5. Section 19-7-404, MCA, is amended to read:

"**19-7-404. Employer contributions.** (1) ~~The~~ *Each* employer shall pay 9.535% of the compensation paid to all of the employer's employees *plus any additional contribution under subsection (3)*, except *for* those *employees* properly excluded from membership.

(2) If the required contribution to the retirement system exceeds the funds available to a county from general revenue sources, a county may, subject to 15-10-420, budget, levy, and collect annually a tax on the taxable value of all taxable property within the county that is sufficient to raise the amount of revenue needed to meet the county's obligation.

(3) Subject to subsection (4), each employer shall contribute to the system an additional employer contribution equal to the following percentage of the compensation paid to all of the employer's employees, except for those employees properly excluded from membership:

(a) beginning July 1, 2007, 0.29%; and

(b) beginning July 1, 2009, 0.58%.

(4) (a) The board shall periodically review the additional employer contribution provided for under subsection (3) and recommend adjustments to the legislature as needed to maintain the amortization schedule set by the board for payment of the system's unfunded liabilities.

(b) The employer contribution required under subsection (3) terminates on July 1 immediately following the system's actuarial valuation if:

(i) the actuarial valuation determines that the period required to amortize the system's unfunded liabilities, including adjustments made for any benefit

enhancements enacted by the legislature after the valuation, is less than 25 years; and

(ii) terminating the additional employer contribution would not cause the amortization period as of the most recent actuarial valuation to exceed 25 years."

Section 6. Section 19-7-711, MCA, is amended to read:

"**19-7-711. Guaranteed annual benefit adjustment.** (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by ~~3%~~ *the applicable percentage provided in subsection (4)*.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than ~~a 3%~~ *an* annualized increase *of the applicable percentage provided in subsection (4)*, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of ~~3%~~ *the applicable percentage* in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than ~~a 3%~~ *an* annualized increase *of the applicable percentage provided in subsection (4)*, then the benefit increase provided under this section must be 0%.

(c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the original payee that occurred since the preceding January, the new recipient's monthly benefit must be increased to ~~3%~~ *the applicable percentage provided in subsection (5)* more than the amount that the contingent annuitant would have received had the contingent annuitant received a benefit during the preceding January.

(3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if the benefit's commencement date is at least 12 months prior to January 1 of the year in which the adjustment is to be made.

(4) (a) The applicable percentage is 3% for benefit recipients hired or assuming office:

(i) before July 1, 2007; or

(ii) on or after July 1, 2007, if the benefit recipient is an existing member of a benefit plan for which the applicable percentage is 3%.

(b) Except as provided in subsection (4)(a)(ii), the applicable percentage is 1.5% for benefit recipients hired or assuming office on or after July 1, 2007.

(5) (a) The applicable percentage rate for a contingent annuitant described in subsection (2)(c) is 3% if the original payee:

(i) was hired or assumed office before July 1, 2007; or

(ii) was an existing member of a benefit plan for which the applicable percentage is 3%.

(b) Except as provided in subsection (5)(a)(ii), the applicable percentage rate for a contingent annuitant described in subsection (2)(c) is 1.5% if the original payee was hired or assumed office on or after July 1, 2007.

~~(4)~~*(6)* The board shall adopt rules to administer the provisions of this section."

Section 7. Section 19-8-1105, MCA, is amended to read:

"**19-8-1105. Guaranteed annual benefit adjustment.** (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by ~~3%~~ *the applicable percentage provided in subsection (4)*.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than ~~a 3%~~ *an* annualized increase *of the applicable percentage provided in subsection (4)*, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of ~~3%~~ *the applicable percentage* in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than ~~a 3%~~ *an* annualized increase *of the applicable percentage provided in subsection (4)*, then the benefit increase provided under this section must be 0%.

(c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the original payee that occurred since the preceding January, the new recipient's monthly benefit must be increased to ~~3%~~ *the applicable percentage provided in subsection (5)* more than the amount that the contingent annuitant would have received had the contingent annuitant received a benefit during the preceding January.

(3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if the benefit's commencement date is at least 12 months prior to January 1 of the year in which the adjustment is to be made.

(4) (a) The applicable percentage is 3% for benefit recipients hired or assuming office:

(i) before July 1, 2007; or

(ii) on or after July 1, 2007, if the benefit recipient is an existing member of a benefit plan for which the applicable percentage is 3%.

(b) Except as provided in subsection (4)(a)(ii), the applicable percentage is 1.5% for benefit recipients hired or assuming office on or after July 1, 2007.

(5) (a) The applicable percentage rate for a contingent annuitant described in subsection (2)(c) is 3% if the original payee:

(i) was hired or assumed office before July 1, 2007; or

(ii) was an existing member of a benefit plan for which the applicable percentage is 3%.

(b) Except as provided in subsection (5)(a)(ii), the applicable percentage rate for a contingent annuitant described in subsection (2)(c) is 1.5% if the original payee was hired or assumed office on or after July 1, 2007.

~~(4)~~*(6)* The board shall adopt rules to administer the provisions of this section."

Section 8. Section 19-21-214, MCA, is amended to read:

"19-21-214. Contributions and allocations for employees in positions covered under the public employees' retirement system. (1) The contribution rates for employees in positions covered under the public employees' retirement system who elect to become program members pursuant to 19-3-2112 are as follows:

(a) the member's contribution rate must be the rate provided in 19-3-315; and

(b) the employer's contribution rate must be the rate provided in 19-3-316.

(2) Subject to subsection (3), *of* the employer's contribution ~~under subsection (1)(b) must be allocated as follows~~:

(a) an amount equal to:

~~(a)~~*(i)* 4.49% of compensation must be allocated to the participant's program account;

~~(b)~~*(ii)* 2.37% of compensation must be allocated to the defined benefit plan under the public employees' retirement system as the plan choice rate; and

~~(c)~~*(iii)* 0.04% of compensation must be allocated to the education fund pursuant to 19-3-112(1)(b)*; and*~~.~~

(b) on July 1, 2007, through June 30, 2009, 0.135% of compensation and on July 1, 2009, continuing until the additional employer contributions terminate pursuant to 19-3-316, 0.27% of compensation must be allocated in the following order:

(i) to the administrative account used by the public employees' retirement board to meet the expenses of the defined contribution plan's startup loan, until paid in full; and

(ii) to the defined benefit plan to eliminate the plan choice rate unfunded actuarial liability.

(3) The allocations under subsection (2) are subject to adjustment by the public employees' retirement board, but only as described in and in a manner consistent with the express provisions of 19-3-2121."

Section 9. Appropriation. For the fiscal year beginning July 1, 2007, there is appropriated to the office of budget and program planning the following amounts from the indicated fund for the purpose of making the additional employer contributions in [sections 1, 2, and 4]:

	FY 2008	FY 2009
General fund	$309,633	$326,913
State special	212,659	221,068
Federal special	138,193	142,593
Proprietary	80,831	84,637

Section 10. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 11. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Public Employees' Retirement System of the State of Montana

Actuarial Valuation as of June 30, 2012

Produced by Cheiron

September 2012

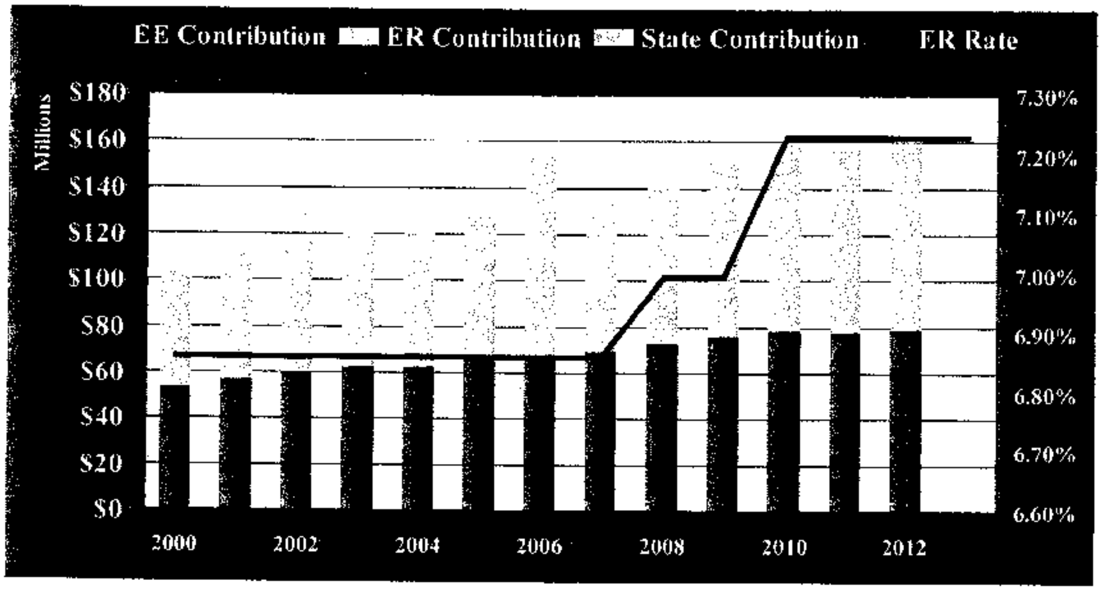
EXHIBIT

7

CHEIRON Classic Values, Innovative Advice

SECTION I
BOARD SUMMARY

Contribution Rates



The stacked bars in this graph show the contributions made by members, employers, and the State (left hand scale). The navy line shows the employer contribution rate as a percent of payroll (right hand scale).

The employer and member contribution rates are set by State law. The actuarial valuation determines the extent to which the statutory contributions will meet the requirements of funding the System.

Participant Trends

The bars show the number of participants in each category and should be read using the left-hand scale. As with any maturing fund, this System continues to show growth in the number of retired members. The active-to-inactive ratio has decreased from 1.9 actives for each inactive in 2000 to 1.3 actives for each inactive today.

The black line shows the covered payroll in the System and is read using the right-hand scale.

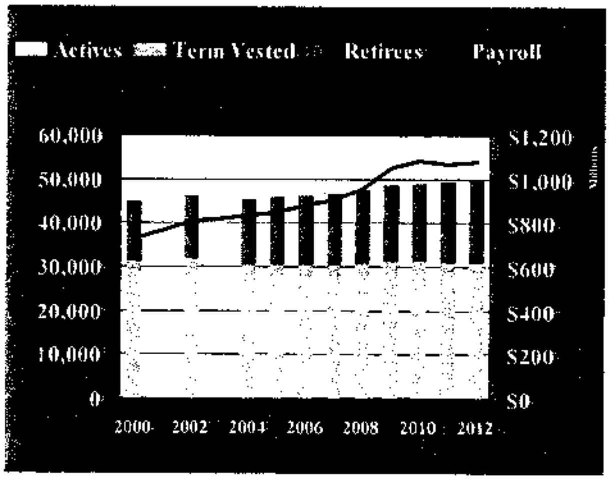


Table of Contents

Letter of Transmittal i

Foreword ii

Section I – Board Summary 1

Section II – Assets 9

Section III – Liabilities 14

Section IV – Contributions 20

Section V – Accounting Statement Information 23

Appendix A – Membership Information 28

Appendix B – Actuarial Assumptions and Methods 43

Appendix C – Summary of Plan Provisions 51

Appendix D – Glossary 57

CHEIRON Classic Values. Innovative Advice

September 14, 2012

Public Employees' Retirement Board
100 North Park, Suite 200
Helena, Montana 59620

Dear Members of the Board:

At your request, we have conducted the annual actuarial valuation of the Public Employees' Retirement System as of June 30, 2012. The results of the valuation are contained in this report. The purpose of the valuation is discussed in the Foreword.

This report contains information on the System's assets, as well as analyses which combine asset and liability performance and projections. The report also discloses employer contribution levels, and required disclosures under the Governmental Accounting Standards Board Statement No. 25. This report is for the use of the Public Employees' Retirement Board and its auditors in preparing financial reports in accordance with applicable law and accounting requirements. Any other user of this report is not an intended user and is considered a third party.

Your attention is called to the Foreword in which we refer to the general approach employed in the preparation of this report. We also comment on the sources and reliability of both the data and the actuarial assumptions on which our findings are based. The results of this report are only applicable for Fiscal Year ending 2012 and rely on future system experience conforming to the underlying assumptions. To the extent that actual system experience deviates from the underlying assumptions, the results would vary accordingly.

We hereby certify that, to the best of our knowledge, this report and its contents, which are based on information supplied by the Montana Public Employees' Retirement Administration, are work products of Cheiron, Inc. These work products are complete and have been prepared in accordance with generally recognized and accepted actuarial principles and practices which are consistent with the Code of Professional Conduct and applicable Actuarial Standards of Practice set out by the Actuarial Standards Board. Furthermore, as credentialed actuaries, we meet the Qualification Standards of the American Academy of Actuaries to render the opinions contained in this report. This report does not address any contractual or legal issues. We are not attorneys and our report does not provide any legal services or advice.

Cheiron's report was prepared exclusively for the Public Employees' Retirement System for a specific and limited purpose. It is not for use or benefit of any third party for any purpose, and Cheiron assumes no duty or liability to any such party.

Sincerely,
Cheiron

Stephen T. McElhaney, FSA, FCA
Principal Consulting Actuary

Margaret Tempkin, FSA
Principal Consulting Actuary

1750 Tysons Boulevard, Suite 1100, McLean, VA 22102 Tel: 703.893.1456 Fax: 703.893.2006 www.cheiron.us

FOREWORD

Cheiron has performed the actuarial valuation of the Public Employees' Retirement System as of June 30, 2012. The purpose of this report is to:

1) **Measure and disclose**, as of the valuation date, the financial condition of the System;

2) **Indicate trends** in the financial progress of the System;

3) **Determine the sufficiency of the statutory contribution rate** paid by the employers for Fiscal Year 2012 to meet the requirements of an Annual Required Contribution (ARC) under GASB 25; and

4) **Provide specific information** and documentation required by the Governmental Accounting Standards Board (GASB).

An actuarial valuation establishes and analyzes system assets and liabilities on a consistent basis, and traces the progress of both from one year to the next. It includes measurement of the system's investment performance as well as an analysis of actuarial liability gains and losses.

Section I presents a summary containing our findings and disclosing important trends experienced by the System in recent years.

Section II contains details on various asset measures, together with pertinent performance measurements.

Section III shows similar information on system liabilities, measured for actuarial, accounting, and government reporting purposes.

Section IV develops the employer contribution rate determined using actuarial techniques.

Section V includes the required disclosures under GASB Statement No. 25.

The appendices to this report contain a summary of the System's membership at the valuation date, a summary of the major provisions of the System, and the actuarial methods and assumptions used in the valuations.

In preparing our report, we relied without audit, on information (some oral and some written) supplied by the staff of the Public Employee Retirement Administration. This information includes, but is not limited to, plan provisions, employee data, and financial information. We performed an informal examination of the obvious characteristics of the data for reasonableness and consistency in accordance with Actuarial Standard of Practice No. 23.

The actuarial assumptions reflect our understanding of the likely future experience of the System and the assumptions as a whole represent our best estimate for the future experience of the System. The results of this report are dependent upon future experience conforming to these assumptions. To the extent that future experience deviates from the actuarial assumptions, the cost of the benefits would vary from our projections.

SECTION I
BOARD SUMMARY

General Comments

This is the fourth valuation of the Public Employees' Retirement System performed by Cheiron.

As of June 30, 2011 valuation the statutory contribution rates were not sufficient to amortize the unfunded actuarial accrued liability. As of June 30, 2012 the statutory contribution rates are again not sufficient to amortize the unfunded actuarial accrued liability. During the year ended June 30, 2012, the System's assets gained 2.27% on a market value basis. However, due to the System's asset-smoothing technique which recognizes only a portion of the gains and losses, the return on the actuarial asset value was 3.28%. This return was below the assumed rate of return of 7.75% and resulted in an actuarial loss on investments of $168 million.

The System experienced an actuarial gain on system liabilities resulting from salary increases different than assumed and members retiring, terminating, becoming disabled, and dying at rates different from the actuarial assumptions. The gain deducted $31 million from the actuarial liability. This type of activity is normal in the course of the System's experience. The System will experience actuarial gains and losses over time, because we cannot predict exactly how people will behave. When a system experiences alternating gains and losses that are small compared to the total actuarial liability, then the system's actuarial assumptions are reasonable.

A new plan was introduced for those hired on or after July 1, 2011. This change had no immediate impact on plan costs or liabilities. However, it does lower the normal cost rate going forward.

As of the June 30, 2012 Actuarial Valuation, the System's unfunded actuarial liability was $1,844 million. This is an increase from last year's unfunded actuarial liability of $1,609 million. The funded ratio decreased from 70% at the prior valuation to 67% at June 30, 2012.

Montana Code Annotated (MCA) 19-2-407 requires an analysis of how market performance is affecting the actuarial funding of the Retirement System. It is our understanding of the Code to report certain key results on a market value of assets basis. The market value at June 30, 2012 was $105 million greater than actuarial value. If market value were used rather than actuarial value, the funded ratio on the valuation date would be 69%, and the statutory contribution rates are not sufficient to amortize the unfunded actuarial liability.

The valuation also includes calculations related to the Plan Choice Rate (PCR). The PCR is the percent of the employer contribution allocated to the Defined Benefit Retirement Plan for members who choose the Defined Contribution Retirement Plan or the Optional Retirement Plan. The calculations show that the amortization of the PCR UAL is 4.6 years, which is within the acceptable range.

This report does not reflect any changes in pension accounting requirements from newly issued GASB Statements Nos. 67 and 68. Statement No. 67 will be effective for the plan year ending June 30, 2014. Statement No. 68 will be effective for most employers' fiscal years ending June

SECTION I
BOARD SUMMARY

30, 2015. All references and calculations with respect to GASB reflect current Statements No. 25 and 27. In addition, in accordance with the System's funding policy, the contribution levels are compared to an amount that would satisfy the requirements for an Annual Required Contribution (ARC) under GASB No. 25. Since the concept of the ARC will disappear when GASB Nos. 67 and 68 become effective, the System may need to define a different calculation basis for measuring funding sufficiency.

SECTION I
BOARD SUMMARY

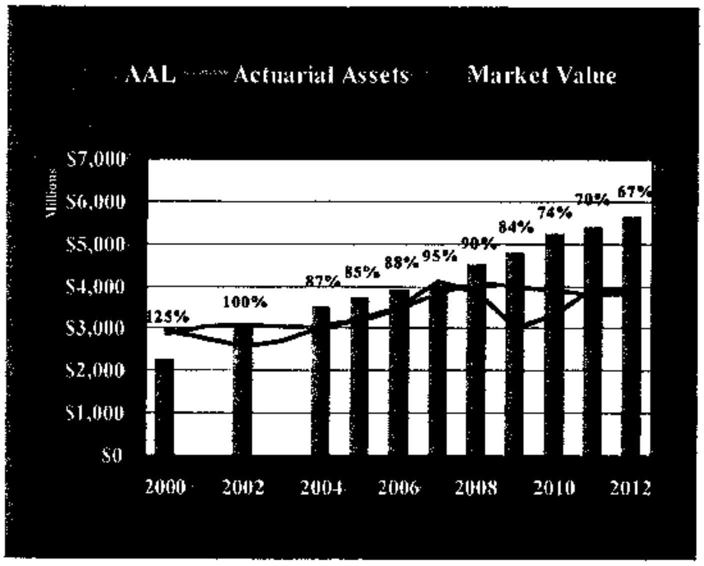
Trends

Assets and Liabilities

The market value of assets (MVA) increased over last year, returning 2.27% from the value at the prior valuation. The determination of the System's actuarial value of assets reflects only a portion of the amount by which the return differs from the assumed rate of 7.75%.

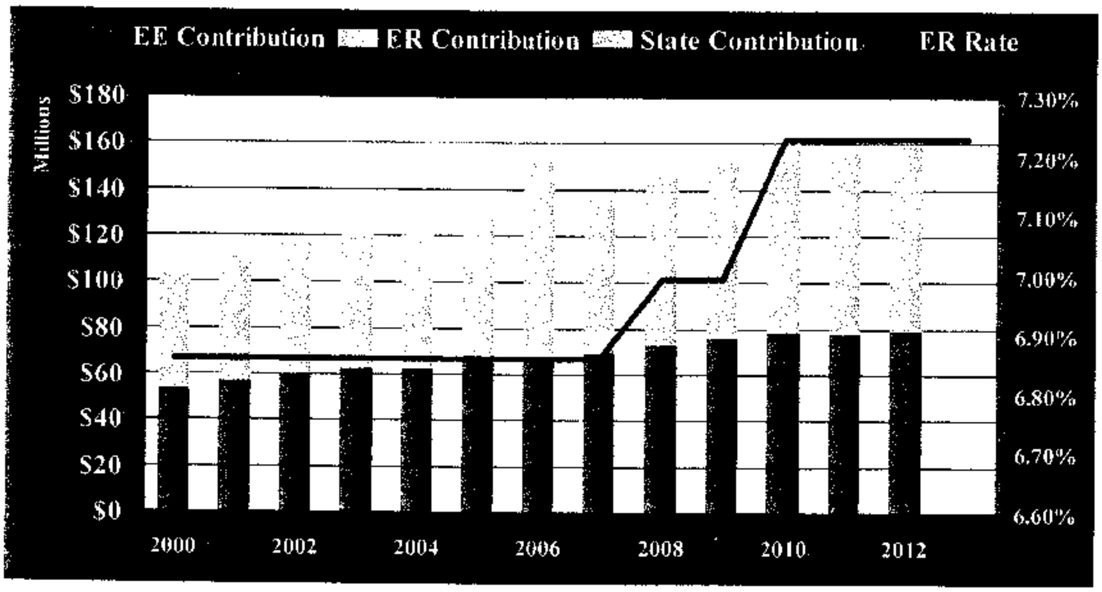
Over the period July 1, 2007 to June 30, 2012 the System's assets returned approximately 1.9% per year measured at actuarial value, compared to a current valuation assumption of 7.75% per year.

For funding purposes, the target amount is represented by the top of the gray bar. We compare the actuarial value of assets to this measure of liability in developing the funded percent. These are the percentages shown in the graph labels.



SECTION I
BOARD SUMMARY

Contribution Rates



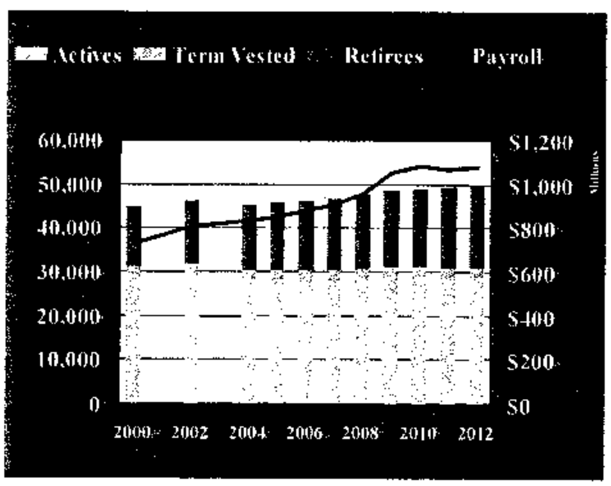
The stacked bars in this graph show the contributions made by members, employers, and the State (left hand scale). The navy line shows the employer contribution rate as a percent of payroll (right hand scale).

The employer and member contribution rates are set by State law. The actuarial valuation determines the extent to which the statutory contributions will meet the requirements of funding the System.

Participant Trends

The bars show the number of participants in each category and should be read using the left-hand scale. As with any maturing fund, this System continues to show growth in the number of retired members. The active-to-inactive ratio has decreased from 1.9 actives for each inactive in 2000 to 1.3 actives for each inactive today.

The black line shows the covered payroll in the System and is read using the right-hand scale.

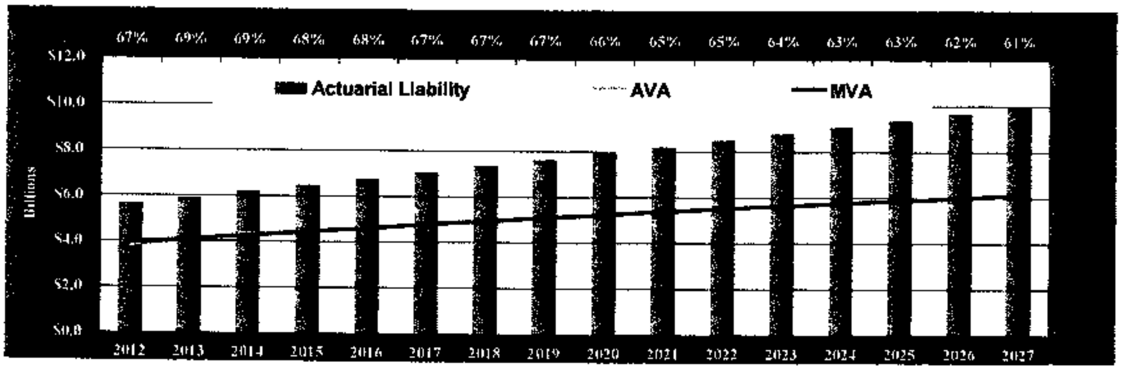


Future Outlook

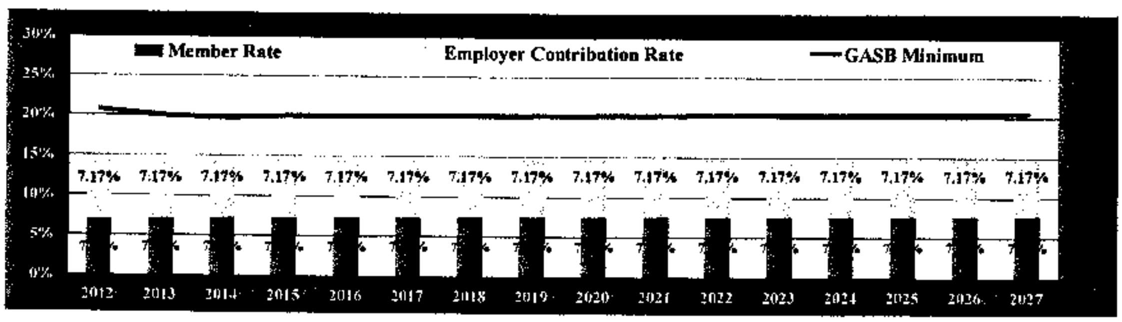
Base Line Projections

These graphs show the expected progress of the System over the next 15 years assuming the System's assets earn 7.75% on their *market value*, and that contributions continue to be made at the current statutory rates.

The chart below shows the funded status of the system is expected to increase slightly as the FY 2011 investment performance is recognized before starting to decrease gradually over the 15-year period. The projections indicate that the statutory contribution rates will need to be increased to maintain the current level of benefits.



The chart below shows that the total contribution (member and State) computed on a GASB Annual Required Contribution basis will remain steady at about 20% of payroll over the 15-year period. Under current accounting standards this would mean continued increases in the State's Net Pension Obligation (NPO).

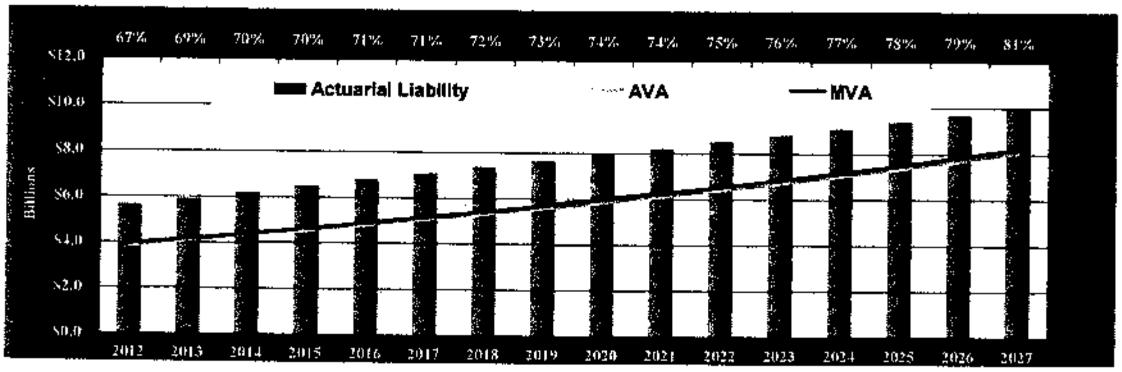


These projections as well as all of the projections that follow, reflect the plan changes which apply to employees hired on or after July 1, 2011.

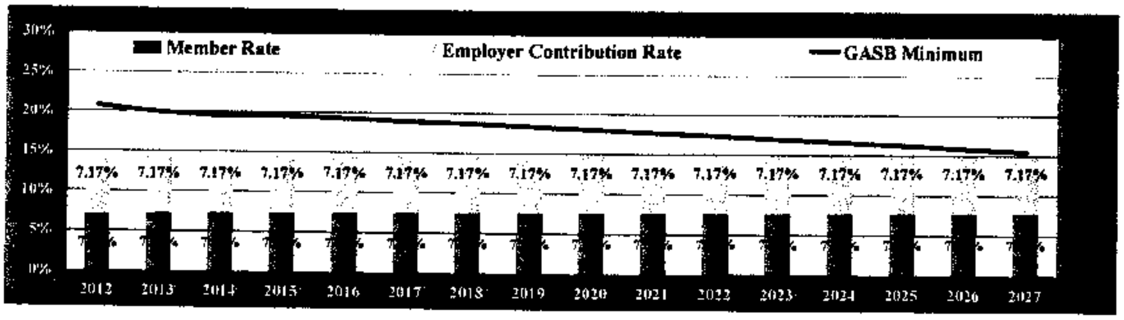
SECTION I
BOARD SUMMARY

Projections with Asset Returns of 9.25%

The future funding status of this System will be impacted by the investment earnings. Changes in market returns can have significant effects on the System's status. These two charts below show what the next 15 years would look like with a 9.25% annual return in each year (i.e. 1.5% greater than the assumed rate of return).



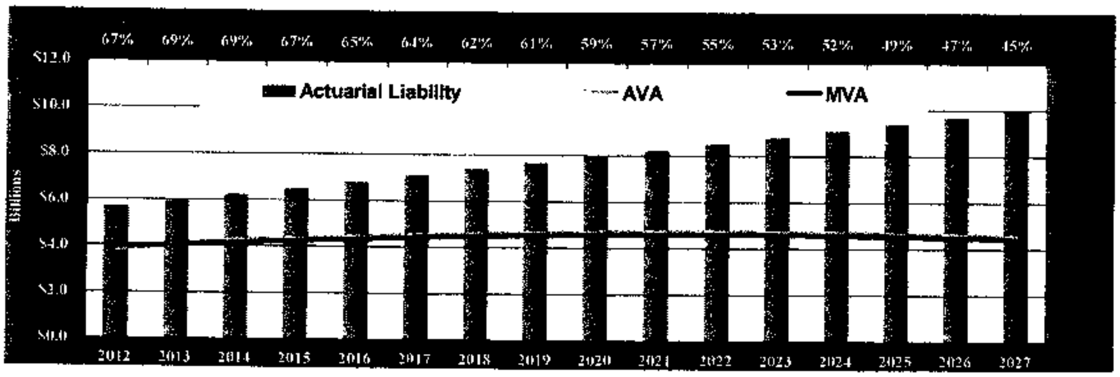
Compared to the baseline projections, the funded status gradually improves over the 15-year period. The GASB Annual Required Contribution decreases gradually, ending slightly above the statutory contribution rate in 2027.



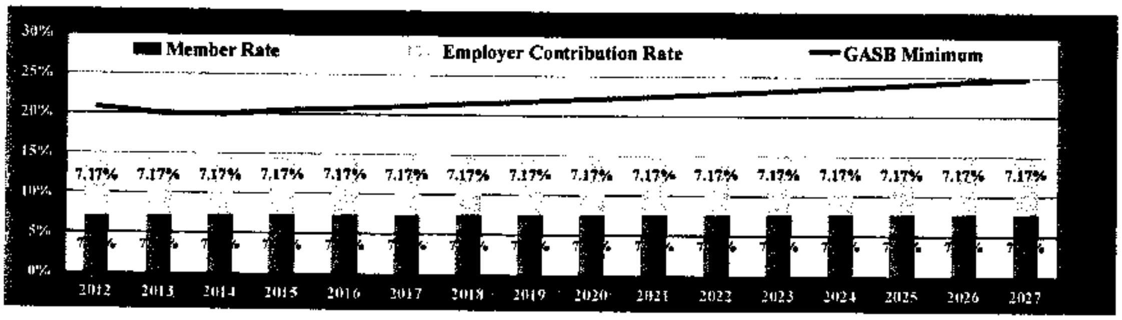
SECTION I
BOARD SUMMARY

Projections with Asset Returns of 6.25%

To further demonstrate how fluctuations in the earnings rate can impact funding, we show the anticipated System funding projections if the invested assets earn 6.25% per year over the entire 15-year period (i.e., 1.5% less than the assumed rate of return).



Under this scenario the funded status declines substantially during the 15-year period and the GASB Annual Required Contribution increases to almost 25% of pay.



SECTION I
BOARD SUMMARY

Table I-1
Montana Public Employees' Retirement System
Summary of Principal System Results

Valuation as of:	June 30, 2011	June 30, 2012	% Change
Participant Counts			
Active Members	28,659	28,548	(0.4%)
Disabled Members*	231	200	(13.4%)
Retirees and Beneficiaries*	17,892	18,538	3.6%
Terminated Vested Members	2,535	2,560	1.0%
Terminated Non-Vested Members	5,787	6,164	6.5%
Total**	55,104	56,010	1.6%
Annual Salaries of Active Members	$ 1,067,494,701	$ 1,078,710,468	1.1%
Average Annual Salary	$ 37,248	$ 37,786	1.4%
Annual Retirement Allowances for Retired Members and Beneficiaries	$ 238,460,803	$ 258,468,971	8.4%
Assets and Liabilities			
Actuarial Accrued Liability (AAL)	$ 5,410,144,412	$ 5,661,281,490	4.6%
Actuarial Value of Assets (AVA)	3,800,478,810	3,816,919,734	0.4%
Unfunded AAL (AVA/AAL)	$ 1,609,665,602	$ 1,844,361,756	14.6%
Less: PCR-UAL	12,929,768	11,053,147	(14.5%)
Net Unfunded AAL	$ 1,596,735,834	$ 1,833,308,609	14.8%
Funded Ratio	70.25%	67.42%	
Present Value of Accrued Benefits (PVAB)	$ 4,691,634,455	$ 4,916,084,348	4.8%
Market Value of Assets	3,939,875,986	3,921,812,233	(0.5%)
Unfunded PVAB	$ 751,758,469	$ 994,272,115	32.3%
Accrued Benefit Funding Ratio	83.98%	79.78%	
Ratio of Actuarial Value to Market Value	96.46%	97.33%	
Contributions as a Percentage of Payroll			
Statutory Funding Rate	14.070%	14.183%	
Less: Transfer to DB Ed Fund	0.040%	0.040%	
Net Statutory Funding Rate	14.030%	14.143%	
Normal Cost Rate	12.590%	11.800%	
Available for Amortization of UAL	1.440%	2.343%	
Period to Amortize	Does not amortize	Does not amortize	
Projected 30-year Level Funding Rate	20.430%	20.710%	
Projected Shortfall (Surplus)	6.360%	6.527%	

* Based on PERA categorization for the annual report. For actuarial valuation purposes, 753 members in 2011 and 750 members in 2012 were valued as disabled members with offsetting reductions to the number of retired members.

** The total number of members processed in the 2012 valuation was 55,937 compared to 56,010 above being used for the annual report. A reconciliation of this difference appears at the beginning of Appendix A.

SECTION II
ASSETS

Pension plan assets play a key role in the financial operation of the System and in the decisions the Trustees may make with respect to future deployment of those assets. The level of assets, the allocation of assets among asset classes, and the methodology used to measure assets will likely impact upon benefit levels, State contributions, and the ultimate security of participants' benefits.

In this section, we present detailed information on System assets including:

- **Disclosure** of System assets at June 30, 2011 and June 30, 2012;
- Statement of the **changes** in market values during the year;
- Development of the **Actuarial Value of Assets**;
- An assessment of **investment performance**; and
- A projection of the System's expected **cash flows** for the next 10 years.

Disclosure

The market value of assets represents "snap-shot" or "cash-out" values which provide the principal basis for measuring financial performance from one year to the next. Market values, however, can fluctuate widely with corresponding swings in the marketplace.

The actuarial values are market values which have been smoothed and are used for evaluating the System's ongoing liability to meet its obligations.

The actuarial value of assets is the current market value, adjusted by a four-year smoothing of gains and losses on a market value basis. Each year's gain or loss is determined difference between the actual market return and the expected market return using the assumed rate of investment return.

SECTION II
ASSETS

Table II-1
Changes in Market Values

Value of Assets – June 30, 2011		**$ 3,939,875,986**
Additions		
Member Contributions	$ 79,261,405	
Employer Contributions	79,497,911	
State Contributions	535,506	
Investment Return	91,372,003	
Other	200,607	
Total Additions	**$ 250,867,432**	
Deductions		
Benefit Payments	$ 265,802,387	
Administrative Expenses	3,128,798	
Total Deductions	**$ 268,931,185**	
Value of Assets – June 30, 2012		**$ 3,921,812,233**

SECTION II
ASSETS

Actuarial Value of Assets (AVA)

The actuarial value of assets represents a "smoothed" value developed by the actuary to reduce, or eliminate, volatile results which could develop from short-term fluctuations in the market value of assets. For this System, the actuarial value has been calculated by taking the market value of assets less 75% of the investment gain (loss) during the preceding year, less 50% of the investment gain (loss) during the second preceding year, and less 25% of the investment gain (loss) during the third preceding year. The tables below illustrate the calculation of actuarial value of assets for the June 30, 2012 valuation.

Table II-2
Market Value Gain/(Loss)

Value of Assets – June 30, 2011	$ 3,939,875,986
Employer, State, and Member Contributions	$ 159,495,429
Benefit Payments	(265,802,387)
Expected Return at 7.75%	301,297,857
Expected Value at June 30, 2012	$ 4,134,866,885
Actual Value at June 30, 2012	$ 3,921,812,233
Investment Gain/(Loss)	$ (213,054,652)

Table II-3
Develop Excluded Gain/(Loss)

	Total Gain/(Loss)	Excluded Portion
Exclude 75% of 2012 Gain/(Loss)	$ (213,054,652)	$ (159,790,989)
Exclude 50% of 2011 Gain/(Loss)	$ 456,618,871	$ 228,309,435
Exclude 25% of 2010 Gain/(Loss)	$ 145,496,211	$ 36,374,053
Total Excluded Gain/(Loss) for AVA Calculation		$ 104,892,499

Table II-4
Actuarial Value of Assets

Market Value of Assets – June 30, 2012	$ 3,921,812,233
Total Gain/(Loss) excluded	104,892,499
Actuarial Value of Assets – June 30, 2012	$ 3,816,919,734

SECTION II
ASSETS

Investment Performance

The market value of assets (MVA) returned 2.27% during 2012, which is less than the assumed 7.75% return. A return of 3.28% on the actuarial value of assets (AVA) is primarily the result of the asset smoothing method being utilized for the calculation of the actuarial value of assets. Since only 25% of the gain or loss from the performance of the System is recognized in a given year, in periods of very good performance, the AVA can lag significantly behind the MVA. In a period of negative returns, the AVA does not decline as rapidly as the MVA.

Table II-5
Annual Rates of Return

Year Ending June 30,	Market Value	Actuarial Value
2005	8.03%	5.32%
2006	8.98%	9.25%
2007	17.92%	11.94%
2008	(4.91%)	7.62%
2009	(20.85%)	(0.16%)
2010	12.91%	(1.18%)
2011	21.70%	(0.08%)
2012	2.27%	3.28%

SECTION II
ASSETS

Table II-6
Projection of System's Benefit Payments and Contributions (in thousands)

Year Beginning July 1,	Expected Benefits	Expected Contributions*	Net Cash Flow (excluding Investment Return)	Expected Investment Return**	Net Cash Flow (including Investment Return)
2012	$ 302,221	$ 165,089	$ (137,132)	$ 298,726	$ 161,594
2013	307,863	173,293	(134,570)	311,347	176,777
2014	331,140	181,020	(150,120)	324,456	174,336
2015	355,739	189,007	(166,732)	337,335	170,603
2016	380,086	197,287	(182,799)	349,946	167,147
2017	405,929	205,879	(200,050)	362,243	162,193
2018	433,492	214,808	(218,684)	374,105	155,421
2019	461,277	224,073	(237,204)	385,446	148,242
2020	488,703	233,686	(255,017)	396,257	141,240
2021	515,868	243,660	(272,208)	406,550	134,342

* Expected contributions include Employer Contributions, State Contributions and Member Contributions. For illustration purposes, we have assumed that all contribution rates will remain level (except for the additional 1% member contribution rate for future members) and that payroll will increase at the actuarially assumed rate of 4.00% per year.

** Expected investment return is based upon an assumed return of 7.75% per annum.

Expected benefit payments are projected for the closed group valued at June 30, 2012. Projecting any farther than 10 years using a closed-group would not yield reliable predictions due to the omission of new hires.

SECTION III
LIABILITIES

In this section, we present detailed information on System liabilities including:

- **Disclosure** of System liabilities at June 30, 2011 and June 30, 2012;
- Statement of **changes** in these liabilities during the year;
- Details on the source of actuarial gains and losses between this valuation and the last;
- Development of actuarial unfunded liability on a market value basis as required under MCA 12-2-407; and
- Development of the Plan Choice Rate unfunded liability and rate.

Disclosure

Several types of liabilities are calculated and presented in this report. Each type is distinguished by the people ultimately using the figures and the purpose for which they are using them.

- **Present Value of Benefits:** Used for analyzing the financial outlook of the System, this represents the amount of money needed today to fully pay off all future benefits and expenses of the System, assuming participants continue to accrue benefits.

- **Actuarial Accrued Liability:** Used for funding calculations and GASB disclosures, this liability is calculated taking the Present Value of Benefits and subtracting the present value of future Member Contributions and future Employer Normal Costs under an acceptable actuarial funding method. This method is referred to as the **Entry Age Normal** (EAN) funding method.

- **Present Value of Accrued Benefits:** Used for communicating the current level of liabilities, this liability represents the total amount of money needed today to fully pay off the current accrued obligations of the System, assuming no future accruals of benefits. These liabilities are also required for accounting purposes (FASB ASC Topic No. 960) and used to assess whether the System can meet its current benefit commitments.

The following table discloses each of these liabilities for the current and prior valuations. With respect to each disclosure, a subtraction of the appropriate value of System assets yields, for each respective type, a **net surplus** or an **unfunded liability**.

SECTION III
LIABILITIES

Table III-1
Liabilities/Net (Surplus)/Unfunded

	June 30, 2011	June 30, 2012
Present Value of Benefits		
Active Participant Benefits	$ 3,508,104,121	$ 3,456,788,033
Retiree and Inactive Benefits	2,889,696,155	3,131,292,565
Present Value of Benefits (PVB)	**$ 6,397,800,276**	**$ 6,588,080,598**
Market Value of Assets (MVA)	$ 3,939,875,986	$ 3,921,812,233
Future Member Contributions	559,806,286	573,705,041
Future Employer Contributions	578,466,496	582,632,328
Funding Shortfall/(Surplus)	1,319,651,508	1,509,930,996
Total Resources	**$ 6,397,800,276**	**$ 6,588,080,598**
Actuarial Accrued Liability		
Present Value of Benefits (PVB)	$ 6,397,800,276	$ 6,588,080,598
Present Value of Future Normal Costs (PVFNC)	987,655,864	926,799,108
Actuarial Accrued Liability (AAL=PVB–PVFNC)	**5,410,144,412**	**5,661,281,490**
Actuarial Value of Assets (AVA)	3,800,478,810	3,816,919,734
Net (Surplus)/Unfunded (AAL – AVA)	**$ 1,609,665,602**	**$ 1,844,361,756**
Present Value of Accrued Benefits		
Present Value of Benefits (PVB)	$ 6,397,800,276	$ 6,588,080,598
Present Value of Future Benefit Accruals (PVFBA)	1,706,165,821	1,671,996,250
Present Value of Accrued Benefits (PVAB=PVB–PVFBA)	**$ 4,691,634,455**	**$ 4,916,084,348**
Market Value of Assets (MVA)	$ 3,939,875,986	$ 3,921,812,233
Net Unfunded (PVAB – MVA)	**$ 751,758,469**	**$ 994,272,115**

SECTION III
LIABILITIES

Changes in Liabilities

Each of the Liabilities disclosed in the prior table are expected to change at each valuation. The components of that change, depending upon which liability is analyzed, can include:

- New hires since the last valuation
- Benefits accrued since the last valuation
- System amendments increasing benefits
- Passage of time which adds interest to the prior liability
- Benefits paid to retirees since the last valuation
- Participants retiring, terminating, or dying at rates different than expected
- A change in actuarial or investment assumptions
- A change in the actuarial funding method

Unfunded liabilities will change because of all of the above, and also due to changes in system assets resulting from:

- Employer contributions different than expected
- Investment earnings different than expected
- A change in the method used to measure system assets

In each valuation, we report on those elements of change which are of particular significance, potentially affecting the long-term financial outlook of the System. Below we present key changes in liabilities since the last valuation. On the next page we provide more detail on the sources of the actuarial (gain)/loss as measured on the basis of actuarial accrued liability.

Table III-2

(In Thousands)	Present Value of Benefits	Actuarial Accrued Liability	Present Value of Accrued Liability
Liabilities June 30, 2011	$ 6,397,800,276	$ 5,410,144,412	$ 4,691,634,455
Liabilities June 30, 2012	6,588,080,598	5,661,281,490	4,916,084,348
Liability Increase (Decrease)	190,280,322	251,137,078	224,449,893
Change Due to:			
Actuarial (Gain)/Loss	NC*	(30,577,910)	NC*
Plan Changes	0	0	0
Benefits Accumulated and Other Sources	190,280,322	281,714,988	224,449,893

* NC = not calculated.

SECTION III
LIABILITIES

Table III-3
Summary of Actuarial Gains and Losses as of June 30, 2012

Actuarial Liabilities as of July 1, 2011	$ 5,410,144,412
Normal Cost	128,567,046
Actual Benefit Payments	(265,802,387)
Interest	418,950,329
Expected Actuarial Liability as of July 1, 2012	5,691,859,400
Actual Liability as of July 1, 2012	$ 5,661,281,490
Liability (Gain)/Loss	$ (30,577,910)
Sources of Liability (Gain)/Loss	
Salary (Gain)/Loss	$ (41,013,367)
New Participant (Gain)/Loss	9,723,157
Active Retirements (Gain)/Loss	3,487,407
Active Terminations (Gain)/Loss	(1,720,659)
Active Deaths (Gain)/Loss	783,930
Active Disability (Gain)/Loss	(1,954,058)
Inactive Decrements (Gain)/Loss	115,680
Actual Liability as of July 1, 2012	$ 5,661,281,490
Liability (Gain)/Loss due to plan changes	$ 0
Actuarial Value of Assets as of July 1, 2011	$ 3,800,478,810
Net Cash Flow	(106,306,958)
Expected Earnings	290,494,576
Expected Actuarial Value of Assets as of July 1, 2012	3,984,666,428
Actual Actuarial Value of Assets as of July 1, 2012	$ 3,816,919,734
Investment (Gain)/Loss	$ 167,746,694
Total Liability (Gain)/Loss	(30,577,910)
Total Actuarial (Gain)/Loss	$ 137,168,784

SECTION III
LIABILITIES

Table III-4 shows the actuarial liabilities as of the prior and current valuation dates. The unfunded actuarial liability is the difference between the actuarial liability and the actuarial value of assets. The funded ratio is the ratio of the actuarial value of assets to the actuarial liability.

Table III-4
Actuarial Liabilities for Funding

	June 30, 2011	June 30, 2012
1. Actuarial Liabilities		
Retiree and Inactive Benefits	$ 2,889,696,155	$ 3,131,292,565
Active Member Benefits	2,520,448,257	2,529,988,925
Total Actuarial Liability	**$ 5,410,144,412**	**$ 5,661,281,490**
2. Actuarial Value of Assets	$ 3,800,478,810	$ 3,816,919,734
3. Unfunded Actuarial Liability	$ 1,609,665,602	$ 1,844,361,756
4. Funded Ratio	70.25%	67.42%

Montana Code Annotated (MCA) 19-2-407 requires an analysis of how market performance is affecting the actuarial funding of the System. Table III-5 presented below shows the same information as in Table III-4 above, but using market value of assets rather than actuarial value of assets.

Table III-5
Actuarial Liabilities on Market Value Basis (MCA 19-2-407)

	June 30, 2011	June 30, 2012
1. Actuarial Liabilities		
Retiree and Inactive Benefits	$ 2,889,696,155	$ 3,131,292,565
Active Member Benefits	2,520,448,257	2,529,988,925
Total Actuarial Liability	**$ 5,410,144,412**	**$ 5,661,281,490**
2. Market Value of Assets	$ 3,939,875,986	$ 3,921,812,233
3. Unfunded Actuarial Liability	$ 1,470,268,426	$ 1,739,469,257
4. Funded Ratio	72.82%	69.27%

SECTION III
LIABILITIES

Table III-6 shows the development of the portion of the unfunded actuarial liability allocated to PERS members who are in alternative defined contribution plans. This liability is funded by the Plan Choice Rate (PCR) contributions.

Table III-6
Plan Choice Rate Unfunded Liability

		June 30, 2012
1. PCR-UAL as of June 30, 2011	$	12,929,768
2. Assumed Interest at 7.75% per year		1,002,057
3. Less: PCR Contributions to DBRP reduced by Normal Cost		(2,771,291)
4. Interest at 7.75% on line 3		(107,388)
5. PCR – UAL as of June 30, 2012	$	11,053,147

Table III-7 determines the sufficiency of the Plan Choice Rate (PCR), which is used to determine the contributions made to the System for purposes of funding the PCR unfunded liability.

Table III-7
Plan Choice Rate

		June 30, 2012
PCR – Normal Cost Rate		
Normal Cost Rate		
DBRP Members Only		11.800%
Including DCRP and ORP members		11.800%
Difference	(A)	0.000%
Payroll as of June 30, 2012		
DBRP Members Only	(B)	$ 1,029,692,504
DCRP and ORP members	(C)	$ 99,836,020
PCR – Normal Cost Rate	(A) X (B) ÷ (C)	0.000%
PCR – UAL Amortization		
PCR – UAL as of June 30, 2012		$ 11,053,147
PCR Available for Amortization		
Current PCR Amortization Rate		2.640%
Less: PCR – Normal Cost Rate		0.000%
PCR Available for Amortization - 2012		2.640%
Years to Amortize PCR – UAL from June 30, 2012		4.6 years
Maximum Years for Amortization		15.75 years
Sufficient or Insufficient		Sufficient

SECTION IV
CONTRIBUTIONS

In the process of evaluating the financial condition of any pension plan, the actuary analyzes the assets and liabilities to determine what level (if any) of contributions is needed to properly maintain the funding status of the System. Typically, the actuarial process will use a funding technique that will result in a pattern of contributions that are both stable and predictable.

For this System, the funding method employed is the **Entry Age Actuarial Cost Method**. Under this method, there are two components to the total contribution: the **normal cost rate** and the **unfunded actuarial liability rate** (UAL rate). The normal cost rate is determined by taking the value, as of entry age into the system, of each member's projected future benefits. This value is then divided by the value, also at entry age, of each member's expected future salary. The normal cost rate is multiplied by current salary to determine each member's normal cost rate. Finally, the total normal cost rate is reduced by the member contribution to produce the employer normal cost rate. The difference between the EAN actuarial liability and the actuarial value of assets is the unfunded actuarial liability.

For purposes of determining the adequacy of the statutory funding rate, the UAL rate is calculated by subtracting the normal cost rate from the statutory rate. A calculation is then made to determine the period over which the UAL rate will amortize the unfunded actuarial liability. A second UAL rate is calculated based upon a 30-year amortization of the UAL, which is the maximum amortization period permitted under GASB Statement No. 25, but which should not necessarily be construed as a recommended contribution level. All UAL payments are determined as a level percentage of pay, assuming that total pay increases by the annual inflation rate of 4.00%.

SECTION IV
CONTRIBUTIONS

The tables below present and compare the contribution rates for the System for this valuation and the prior one.

Table IV-1
Statutory Basis

	June 30, 2011	June 30, 2012
Statutory Funding Rates		
Members	6.900%	7.013%
Employers and State[1]	7.170%	7.170%
Total	14.070%	14.183%
Transfer to Education Fund	0.040%	0.040%
Net Contribution to DBRP	14.030%	14.143%
Normal Cost Rate[2]	12.590%	11.800%[2]
Funding Rate Available for Amortization	1.440%	2.343%
Unfunded Actuarial Liability (Surplus)	$ 1,609,665,602	$ 1,844,361,756
Less: PCR-UAL	12,929,768	11,053,147
UAL Funded by DBRP	1,596,735,834	1,833,308,609
Years to Amortize	Does not amortize	Does not amortize

[1] Rates shown are for the fiscal year following the valuation date. The allocation of the rate between Employers and the State is described in Appendix C, item 2.

[2] The normal cost rate is projected to be 9.92% for members eligible after July 1, 2011. It is expected that the average normal cost rate will decrease over the next generation of active plan members.

Table IV-2
Years to Amortize Unfunded Actuarial Liability
Under Alternate Assumptions

	June 30, 2011	June 30, 2012
Years to Amortize		
Using Market Value of Assets	Does not amortize	Does not amortize
Excluding additional contributions under HB131		
Using Actuarial Value of Assets	Does not amortize	Does not amortize
Using Market Value of Assets	Does not amortize	Does not amortize

SECTION IV
CONTRIBUTIONS

Table IV-3
Calculated Contribution Basis

	June 30, 2011	June 30, 2012
Normal Cost Rate	12.590%	11.800%
Educational Fund	0.040%	0.040%
Amortization Payment (30-years)	7.800%	8.870%
Total Calculated Contribution Rate	20.430%	20.710%
Less Statutory Rate	14.070%	14.183%
Shortfall (Surplus) in Statutory Rate	6.360%	6.527%

Table IV-4
Calculated Contribution on Market Value (MCA 19-2-407)

	June 30, 2011	June 30, 2012
Normal Cost Rate	12.590%	11.800%
Educational Fund	0.040%	0.040%
Amortization Payment (30-years)	7.120%	8.360%
Total Calculated Contribution Rate	19.750%	20.200%
Less Statutory Rate	14.070%	14.183%
Shortfall (Surplus) in Statutory Rate	5.680%	6.017%

The following table shows the expected results for the next five valuations (assuming all assumptions are met, including 7.75% return).

Table IV-5
Projected Calculated Contribution Rates

Valuation Year	Rate
2013	19.97%
2014	19.71%
2015	19.97%
2016	19.99%
2017	20.02%

SECTION V
ACCOUNTING STATEMENT INFORMATION

Account Standard Codification Topic No. 960 of the Financial Accounting Standards Board specifies certain information for a plan to disclose regarding its funded status. Statement No. 25 of the Governmental Accounting Standards Board (GASB) establishes standards for disclosure of pension information by public employee retirement systems (PERS) and governmental employers in notes to financial statements and supplementary information.

The FASB ASC Topic No. 960 disclosures provide a quasi "snap shot" view of how the System's assets compare to its liabilities if contributions stopped and accrued benefit claims had to be satisfied. However, due to potential legal requirements and the possibility that alternative interest rates would have to be used to determine the liabilities, these values may not be a good indication of the amount of money it would take to buy the benefits for all members if the System were to terminate.

The GASB-25 actuarial accrued liability is the same as the actuarial liability amount calculated for funding purposes.

Both the present value of accrued benefits (FASB ASC Topic No. 960) and the actuarial accrued liability (GASB-25) are determined assuming that the System is on-going and participants continue to terminate employment, retire, etc., in accordance with the actuarial assumptions. Liabilities are discounted at the assumed valuation interest rate of 7.75% per annum.

FASB ASC Topic No. 960 specifies that a comparison of the present value of accrued (accumulated) benefits with the market value of the assets as of the valuation date must be provided. GASB Statement No. 25 requires the actuarial accrued liability be compared with the actuarial value of assets for funding purposes. The relevant amounts as of June 30, 2012 are exhibited in Table V-1.

Tables V-2 through V-5 are exhibits to be used with the CAFR report. Table V-2 is the Note to Required Supplementary Information, Table V-3 is a history of gains and losses in Accrued Liability, Table V-4 is the Schedule of Funding Progress, and V-5 is the Solvency Test which shows the portion of Accrued Liability covered by Assets.

SECTION V
ACCOUNTING STATEMENT INFORMATION

Table V-1
Accounting Statement Information

	June 30, 2011	June 30, 2012
A. FASB ASC Topic No. 960 Basis		
1. Present Value of Benefits Accrued and Vested to Date		
a. Members Currently Receiving Payments	$ 2,728,686,667	$ 2,958,075,715
b. Former Vested Members	161,009,488	173,216,850
c. Active Members	1,801,938,300	1,784,791,783
2. Total Present Value of Accrued Benefits (1 (a) + 1(b) + 1(c))	$ 4,691,634,455	$ 4,916,084,348
3. Assets at Market Value	3,939,875,986	3,921,812,233
4. Unfunded Present Value of Accrued Benefits (2 – 3)	$ 751,758,469	$ 994,272,115
5. Ratio of Assets to Present Value of Accrued Benefits (3 / 2)	83.98%	79.78%
B. GASB No. 25 Basis		
1. Actuarial Accrued Liabilities for retirees and beneficiaries currently receiving benefits and terminated employees not yet receiving benefits	$ 2,889,696,155	$ 3,131,292,565
2. Actuarial Accrued Liabilities for current employees	2,520,448,257	2,529,988,925
3. Total Actuarial Accrued Liability (1 + 2)	$ 5,410,144,412	$ 5,661,281,490
4. Net Actuarial Assets available for benefits	3,800,478,810	3,816,919,734
5. Unfunded Actuarial Accrued Liability (3 – 4)	$ 1,609,665,602	$ 1,844,361,756

SECTION V
ACCOUNTING STATEMENT INFORMATION

Table V-2
Note To Required Supplementary Information

The information presented in the required supplementary schedules was determined as part of the actuarial valuation at the date indicated. Additional information as of the latest actuarial valuation follows.

Valuation date	June 30, 2012
Actuarial cost method	Entry age
Amortization method	Open
Remaining amortization period for Annual Required Contribution	30 years
Asset valuation method	Four-Year smoothed market
Actuarial assumptions:	
Investment rate of return*	7.75%
General wage growth*	4.00%
Merit salary increases	0.0% - 6.0%
*Includes inflation at	3.00%

The actuarial assumptions used have been recommended based on the most recent review of the System's experience (completed in 2010) and adopted by the Retirement Board.

The rate of employer contributions to the System is composed of the normal cost and amortization of the unfunded actuarial accrued liability. The normal cost is a level percent of payroll cost which will pay for projected benefits at retirement for each participant. The actuarial accrued liability is that portion of the present value of projected benefits that will not be paid by future normal costs. The difference between this liability and the funds accumulated as of the same date is the unfunded actuarial accrued liability.

SECTION V
ACCOUNTING STATEMENT INFORMATION

Table V-3
Analysis Of Financial Experience*

Gain and Loss in Accrued Liability During Years Ended June 30
Resulting from Differences Between Assumed Experience and Actual Experience

Gain (or Loss) for Year ending June 30,
(expressed in thousands)

Type of Activity	2007	2008	2009	2010	2011	2012
Investment Income on Actuarial Assets	$136,012	$ (14,160)	$(329,471)	$ (364,392)	$(301,247)	$(167,747)
Combined Liability Experience	(40,640)	(47,012)	(14,731)	(10,001)	90,607	30,578
(Loss)/Gain During Year from Financial Experience	$ 95,372	$ (61,172)	$(344,202)	$ (374,393)	$(210,640)	$(137,169)
Non-Recurring Items	0	0	0	(156,543)	35,686	0
Composite Gain (or Loss) During Year	$ 95,372	$ (61,172)	$(344,202)	$ (530,936)	$(174,954)	$(137,169)

* Years prior to 2009 were taken from reports prepared by prior actuary.

SECTION V
ACCOUNTING STATEMENT INFORMATION

Table V-4
Schedule Of Funding Progress*
(expressed in thousands)

Valuation Date June 30,	Actuarial Value of Assets	Actuarial Accrued Liability (AAL)	Funded Ratio	Unfunded AAL (UAAL)	Covered Payroll	UAAL as a Percentage of Covered Payroll
2012	$ 3,816,920	$ 5,661,281	67 %	$ 1,844,361	$ 1,081,288	171 %
2011	3,800,479	5,410,144	70 %	1,609,665	1,071,376	150 %
2010	3,889,890	5,241,819	74 %	1,351,929	1,083,780	125 %
2009	4,002,212	4,792,819	84 %	790,607	1,003,215	79 %
2008	4,065,307	4,504,743	90 %	439,436	955,113	46 %
2007	3,825,234	4,201,251	91 %	376,017	907,424	41 %

Table V-5
Solvency Test*
Aggregate Accrued Liabilities for
(expressed in thousands)

Valuation Date June 30,	Active Member Contributions (1)	Retirees & Beneficiaries (2)	Active Member Employer Financed Contributions (3)	Actuarial Value of Reported Assets	Portion of Accrued Liabilities Covered by Reported Assets (1)	(2)	(3)
2012	$ 837,663	$ 2,958,076	$ 1,865,543	$ 3,816,920	100 %	100 %	1 %
2011	840,762	2,728,687	1,840,696	3,800,479	100 %	100 %	13 %
2010	848,756	2,481,534	1,911,529	3,889,890	100 %	100 %	29 %
2009	828,390	2,272,582	1,691,847	4,002,212	100 %	100 %	53 %
2008	783,801	2,232,148	1,488,794	4,065,307	100 %	100 %	70 %
2007	749,000	2,051,107	1,401,143	3,825,234	100 %	100 %	73 %

* Years prior to 2009 were taken from reports prepared by prior actuary.

APPENDIX A
MEMBERSHIP INFORMATION – DBRP ONLY

PERS

Reconciliation of Participant Counts

	Active	Disabled	Retirees and Beneficiaries	Terminated Vested Members	Terminated Non-Vested Members	Total
Participant counts used for valuation	28,548	750	17,915	2,560	6,164	55,937
Disabled members having attained normal retirement age		(550)	550			-
Beneficiaries of Disabled Members						-
Beneficiaries with less than one year of certain payments remaining			73			73
Other Adjustments	-			-	-	-
Participant counts shown in Annual Financial Report	28,548	200	18,538	2,560	6,164	56,010

This chart is presented for informational purposes only. The counts shown in the valuation line were used for preparation of the liabilities disclosed within this report. The counts disclosed for the Annual Financial Report and the Board Summary (page 8) match the CAFR reports at the request of the Board. The differences between the counts, if any, have no material effect upon the liability calculation.

The salaries used in the tables and charts which follow are different than the salaries used for the Board Summary on page 8. For this Appendix A, the valuation projected salaries to be paid for the following fiscal year, whereas for the Board Summary, salaries are applicable in the year ending on the valuation date.

APPENDIX A
MEMBERSHIP INFORMATION – DBRP ONLY

The benefits for retirees and beneficiaries used for the tables and charts which follow are different than the benefits used for the Board Summary on page 8. For this Appendix A, the valuation projected benefits to be paid for the following fiscal year (including GABA where applicable), whereas for the Board Summary, annual benefits are as of the valuation date.

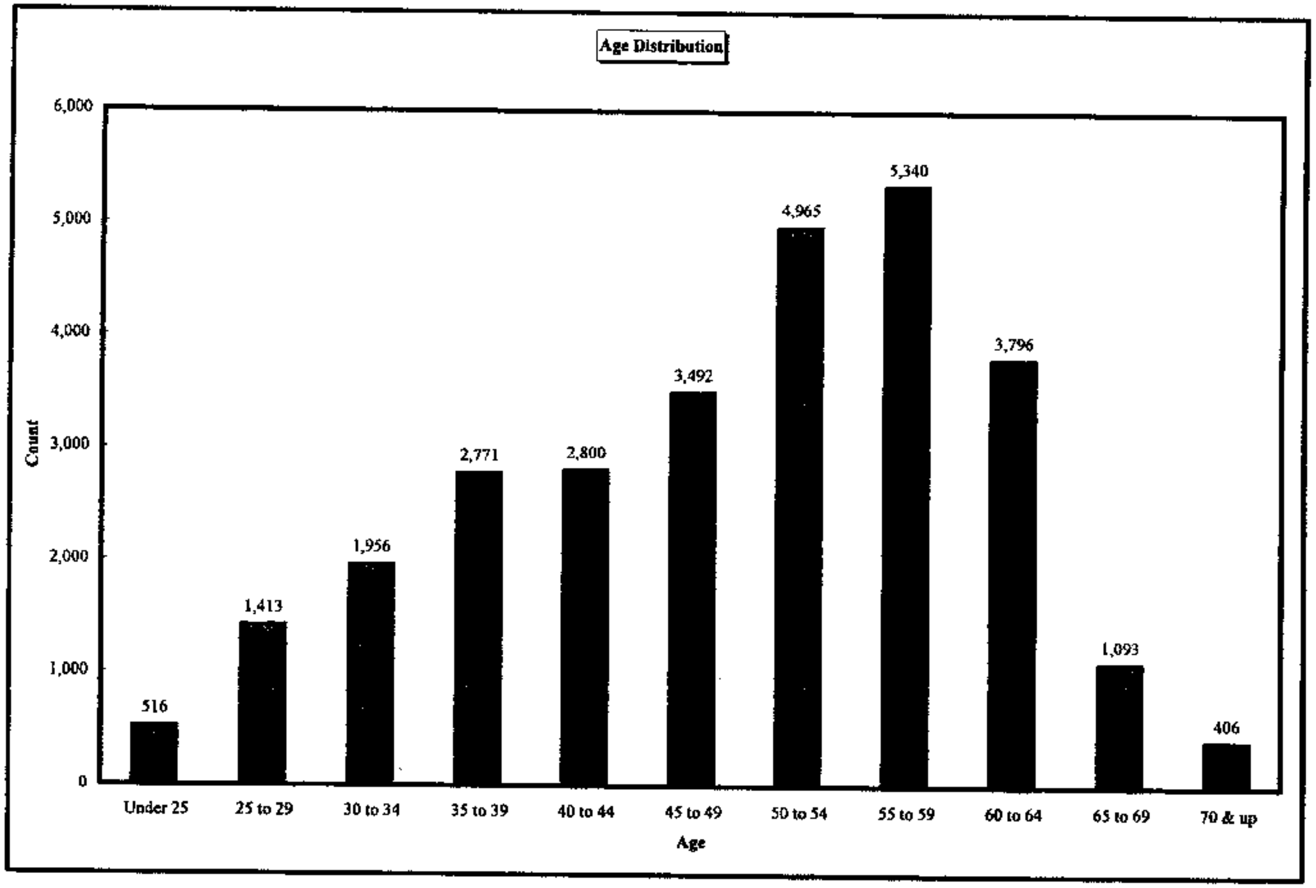
Montana Public Employees' Retirement System Distribution of Active Members by Age and Service as of June 30, 2012

COUNTS BY AGE/SERVICE

	Service										
Age	Under 1	1 to 4	5 to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 to 34	35 to 39	40 & up	Total
Under 25	330	182	4	0	0	0	0	0	0	0	516
25 to 29	524	726	163	0	0	0	0	0	0	0	1,413
30 to 34	466	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	0	[illegible]	0	0	1,956
35 to 39	884	892	629	306	59	1	0	0	0	0	2,771
40 to 44	422	[illegible]	662	455	[illegible]	[illegible]	[illegible]	0	0	[illegible]	2,800
45 to 49	412	914	771	557	398	346	91	3	0	0	3,492
50 to 54	421	1,072	974	795	568	610	[illegible]	143	[illegible]	0	4,965
55 to 59	364	943	967	820	691	665	468	313	106	3	5,340
60 to 64	189	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	3,796
65 to 69	60	205	208	191	128	130	81	52	19	19	1,093
70 & up	29	105	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	406
Total	4,101	7,419	5,642	3,870	2,708	2,368	1,384	722	278	56	28,548

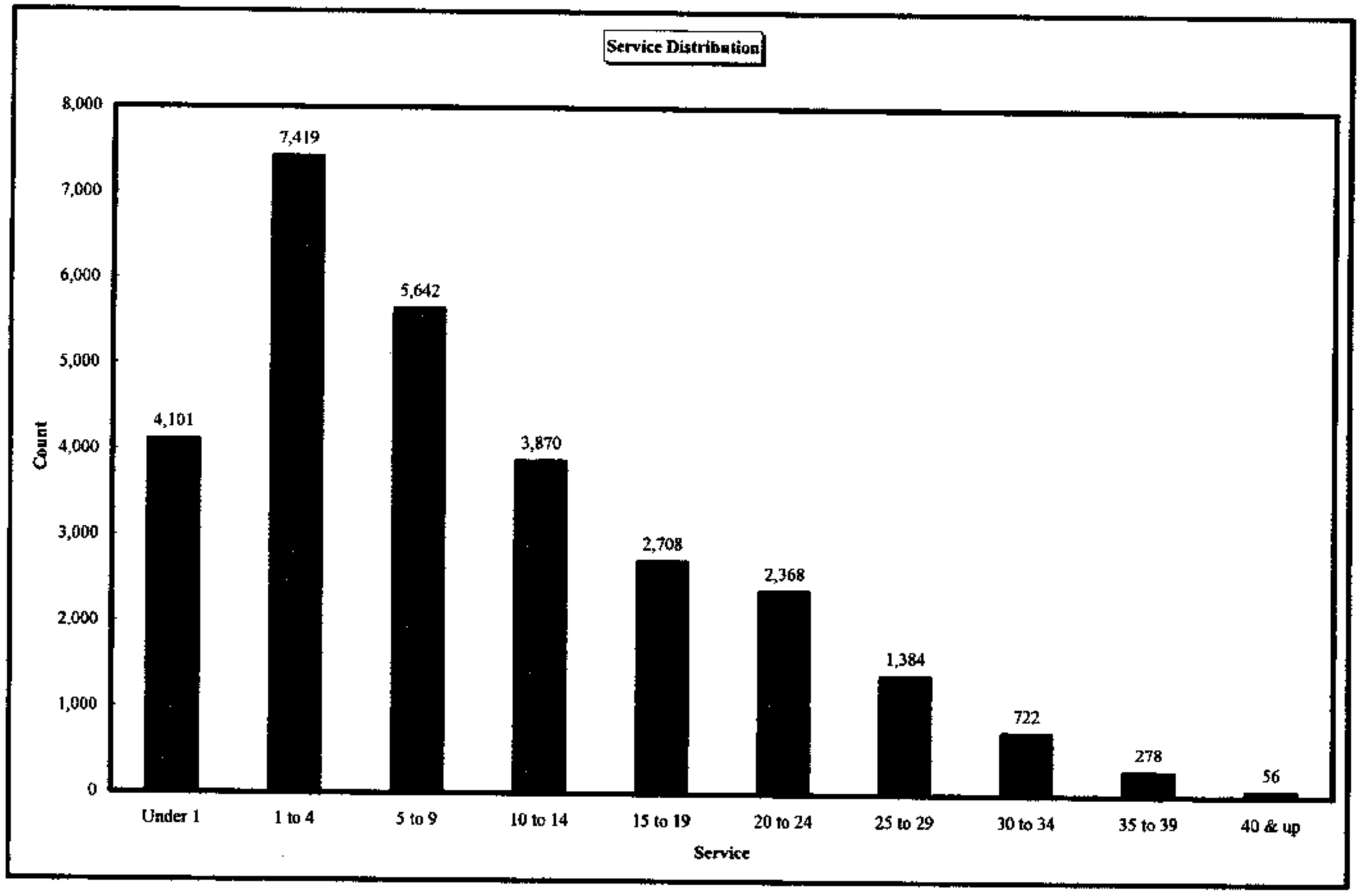
APPENDIX A
MEMBERSHIP INFORMATION – DBRP ONLY

Montana Public Employees' Retirement System Distribution of Active Members by Age as of June 30, 2012



APPENDIX A
MEMBERSHIP INFORMATION – DBRP ONLY

Montana Public Employees' Retirement System Distribution of Active Members by Service as of June 30, 2012



Montana Public Employees' Retirement System Distribution of Active Members by Age and Service as of June 30, 2012

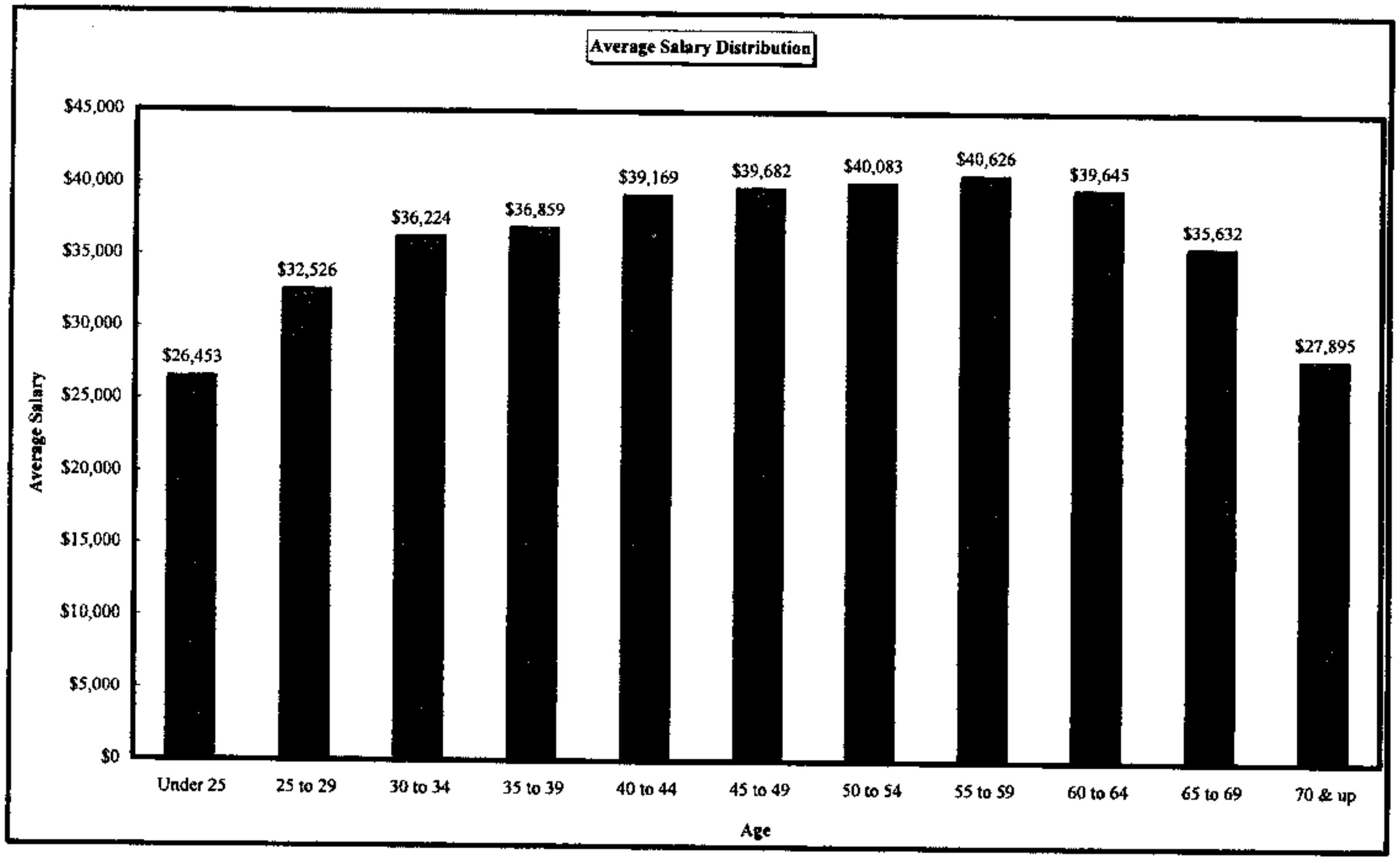
AVERAGE SALARY BY AGE/SERVICE

Age	Service										Total
	Under 1	1 to 4	5 to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 to 34	35 to 39	40 & up	
Under 25	$26,259	$26,695	[illegible]	$0	$0	$0	$0	$0	$0	$0	$26,453
25 to 29	$31,195	$32,408	$37,333	$0	$0	$0	$0	$0	$0	$0	$32,526
30 to 34	$31,178	$35,665	[illegible]	[illegible]	[illegible]	$0	$0	$0	$0	$0	$36,224
35 to 39	$31,123	$34,243	$42,742	$46,754	$48,375	$31,632	$0	$0	$0	$0	$36,859
40 to 44	$30,226	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	$0	$0	$0	$39,169
45 to 49	$30,210	$32,434	$37,325	$43,728	$49,763	$53,986	$51,365	$61,587	$0	$0	$39,682
50 to 54	$28,958	$31,332	$35,078	$40,813	[illegible]	[illegible]	$54,920	[illegible]	$55,830	$0	$40,083
55 to 59	$30,110	$30,759	$35,774	$39,757	$41,876	$48,197	$52,821	$56,653	$58,076	$63,055	$40,626
60 to 64	$26,372	$28,405	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	$60,081	$56,216	$39,645
65 to 69	$23,386	$23,326	$30,289	$37,499	$38,700	$44,172	$44,894	$56,171	$52,196	$55,437	$35,632
70 & up	[illegible]	$19,813	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	$55,690	$60,813	$27,895
Total	$29,871	$31,787	$37,151	$41,454	$45,011	$49,179	$51,788	$55,008	$58,560	$56,811	$38,446

The salary shown in the above chart was used for valuation purposes and assumes pay increases for the year.

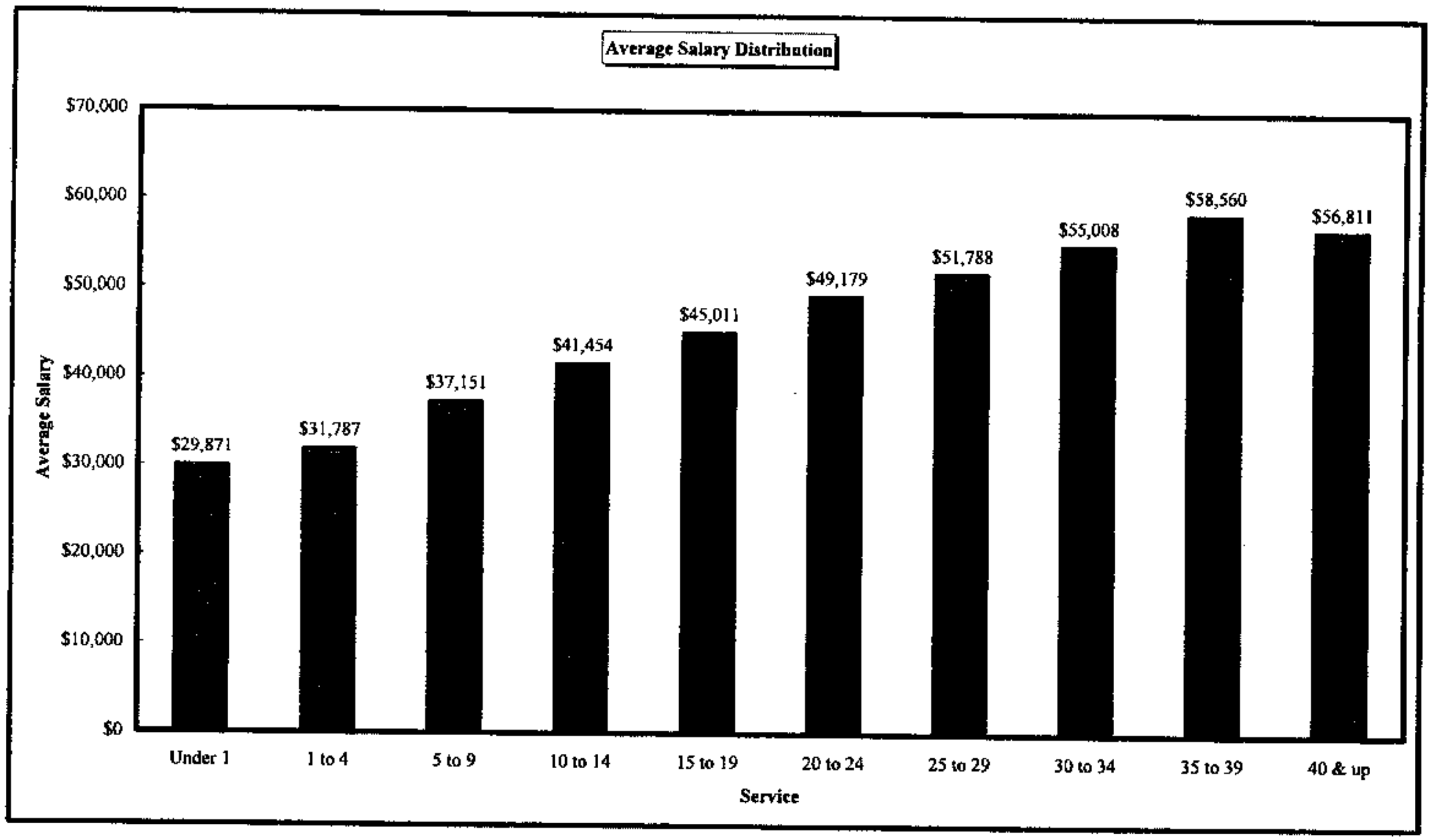
APPENDIX A
MEMBERSHIP INFORMATION – DBRP ONLY

Montana Public Employees' Retirement System Distribution of Active Members by Age as of June 30, 2012



APPENDIX A
MEMBERSHIP INFORMATION – DBRP ONLY

Montana Public Employees' Retirement System Distribution of Active Members by Service as of June 30, 2012



APPENDIX A
MEMBERSHIP INFORMATION – DBRP ONLY

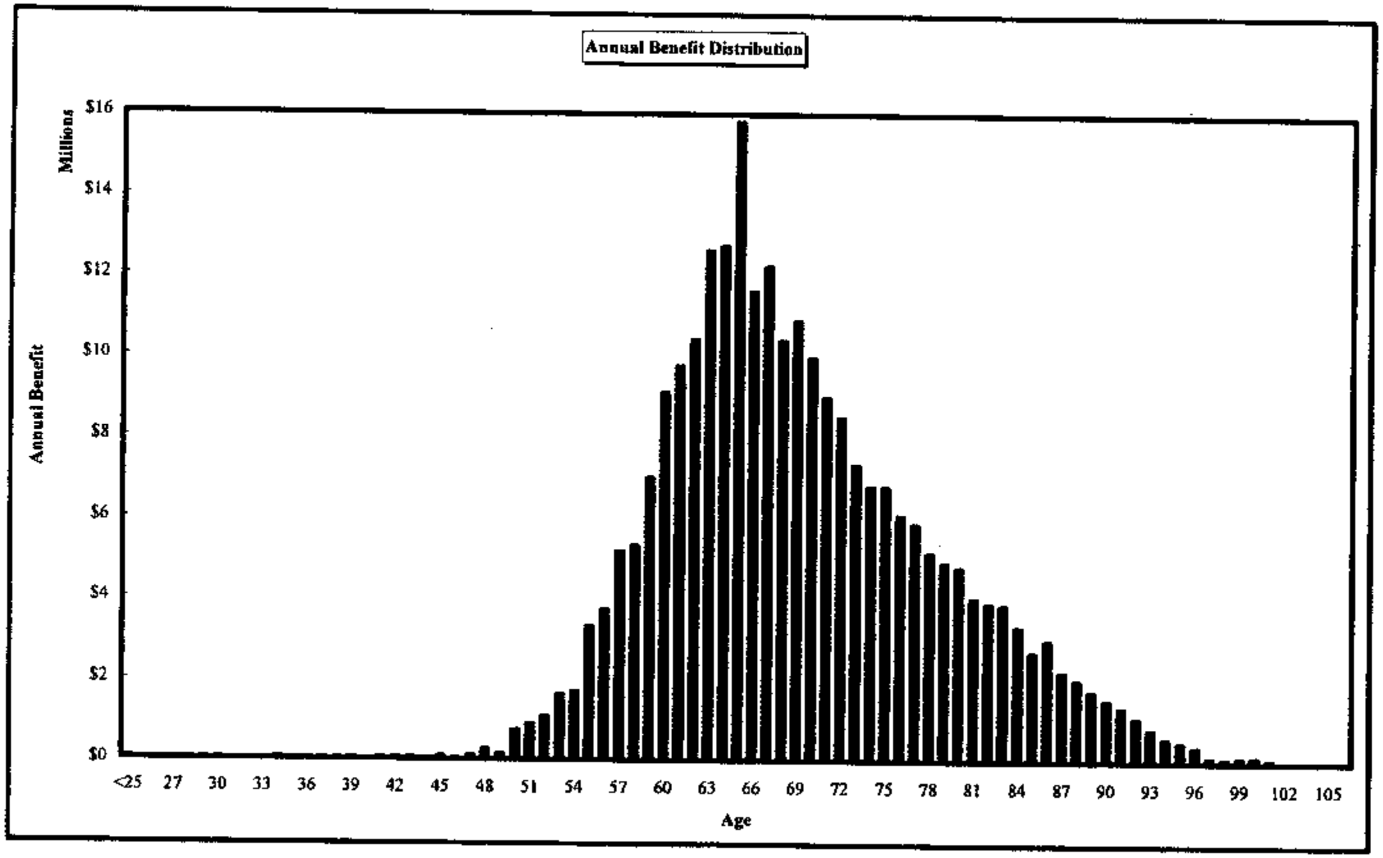
Montana Public Employees' Retirement System Distribution of Retired Members and Survivors as of June 30, 2012

Age	Count	Annual Benefit	Age	Count	Annual Benefit
<25	7	$42,259	73	572	$7,310,437
25	1	$4,809	74	556	$6,772,290
26	2	$13,386	75	533	$6,750,757
27	3	$16,541	76	498	$6,067,043
28	3	$31,541	77	501	$5,834,710
29	3	$26,584	78	461	$5,124,637
30	4	$22,400	79	430	$4,881,589
31	1	$841	80	437	$4,766,229
32	2	$6,202	81	396	$3,992,738
33	2	$5,575	82	386	$3,867,204
34	5	$50,157	83	364	$3,824,238
35	5	$27,444	84	339	$3,296,639
36	3	$11,495	85	265	$2,664,188
37	5	$24,686	86	298	$2,960,382
38	3	$23,668	87	244	$2,190,335
39	6	$34,882	88	224	$1,996,756
40	5	$19,504	89	197	$1,712,647
41	7	$44,511	90	167	$1,498,971
42	7	$44,465	91	152	$1,324,757
43	5	$37,828	92	132	$1,077,926
44	4	$18,230	93	98	$792,865
45	8	$77,845	94	61	$558,490
46	5	$25,567	95	53	$473,452
47	10	$99,866	96	38	$375,296
48	15	$257,611	97	15	$107,135
49	12	$143,802	98	13	$86,066
50	39	$724,141	99	11	$112,635
51	45	$901,227	100	11	$130,023
52	57	$1,071,480	101	6	$63,119
53	89	$1,604,192	102	0	$0
54	101	$1,691,975	103	1	$11,188
55	146	$3,288,617	104	1	$6,191
56	178	$3,711,400	105	0	$0
57	223	$5,147,125	106	0	$0
58	277	$5,293,774	107	0	$0
59	326	$6,969,291	108	0	$0
60	439	$9,066,984	109	0	$0
61	510	$9,720,950	110	0	$0
62	600	$10,386,577	111	0	$0
63	697	$12,604,368	112	0	$0
64	718	$12,714,659	113	0	$0
65	917	$15,792,274	114	0	$0
66	699	$11,583,200	115	0	$0
67	773	$12,200,191	116	0	$0
68	723	$10,363,022	117	0	$0
69	763	$10,846,693	118	0	$0
70	686	$9,940,191	119	0	$0
71	660	$8,958,045	120	0	$0
72	656	$8,472,394			
			Totals	17,915	$254,795,405

The chart above reflects the counts and benefits used for valuation purposes as a result of data processing. The benefit amounts shown have been projected using a half year COLA assumption.

APPENDIX A
MEMBERSHIP INFORMATION – DBRP ONLY

Montana Public Employees' Retirement System Distribution of Retired Members and Survivors as of June 30, 2012



APPENDIX A
MEMBERSHIP INFORMATION – DBRP ONLY

Montana Public Employees' Retirement System Distribution of Terminated Vested Members as of June 30, 2012

Age	Count	Annual Benefit*
<25	0	$0
25	1	$11,282
26	1	$11,023
27	2	$20,782
28	4	$32,941
29	4	$34,017
30	11	$88,667
31	13	$117,396
32	14	$158,293
33	27	$265,649
34	21	$209,542
35	23	$204,930
36	22	$217,102
37	25	$203,455
38	20	$179,354
39	33	$306,742
40	34	$312,047
41	37	$292,898
42	51	$486,801
43	52	$446,733
44	61	$517,169
45	70	$519,807
46	62	$501,807
47	81	$633,312
48	94	$722,046
49	83	$666,952
50	107	$818,646
51	129	$1,049,328
52	143	$1,018,716
53	110	$778,141
54	152	$1,032,370
55	128	$770,831
56	134	$887,809
57	147	$996,409
58	141	$916,349
59	124	$774,980
60	84	$528,695
61	87	$611,192
62	55	$440,760
63	50	$289,079
64	44	$276,305
65	25	$220,207
66	10	$50,301
67	8	$51,832
68	12	$51,533
69	8	$40,402
70	7	$26,855
71	5	$32,159
72	0	$0
73	1	$3,902
74	0	$0
75	0	$0
76	0	$0
77	1	$2,880
78	1	$2,672
79	0	$0
80	1	$3,808
81	0	$0
82	0	$0
83	0	$0
84	0	$0
85	0	$0
86	0	$0
87	0	$0
88	0	$0
89	0	$0
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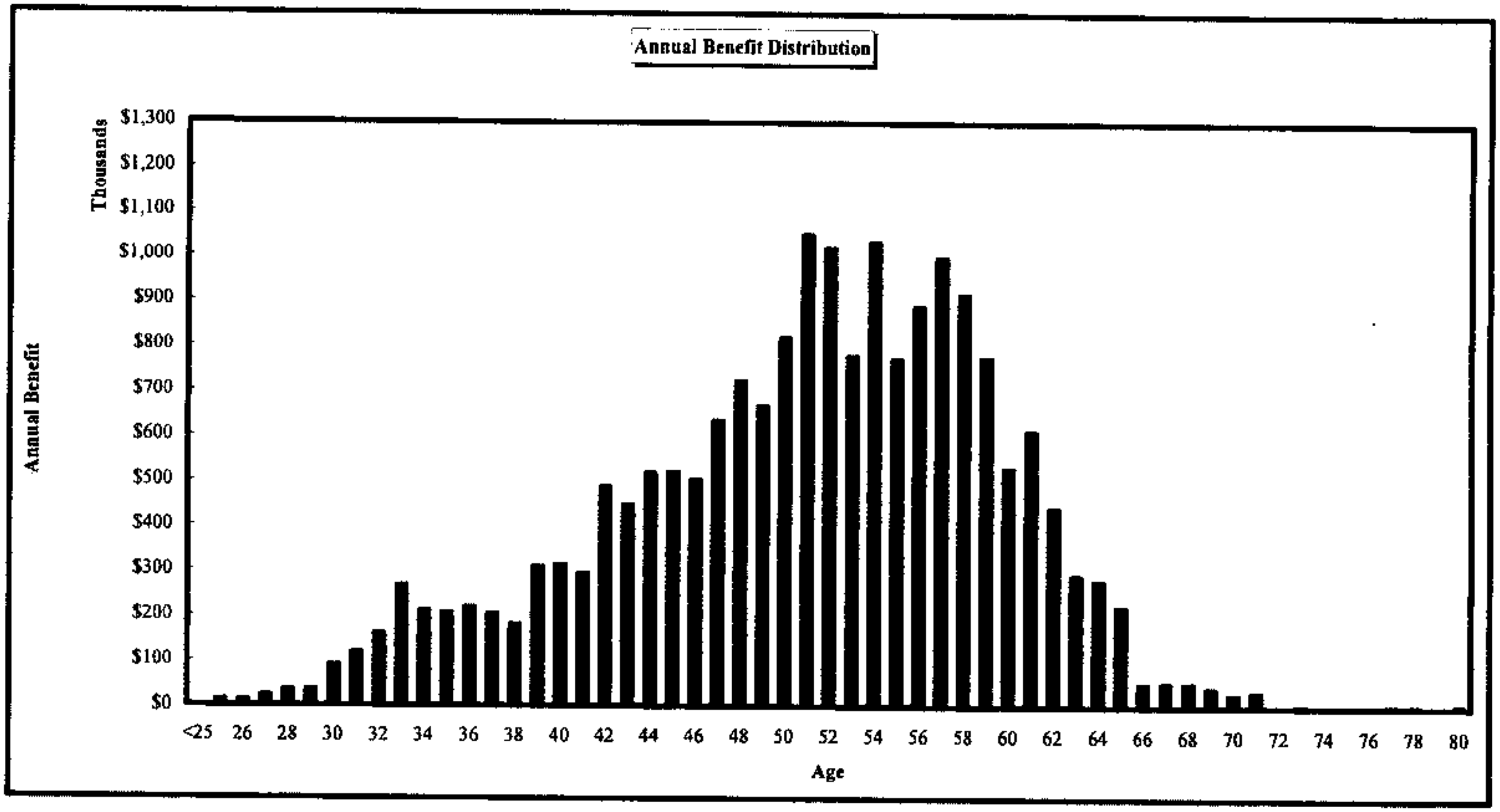
109	0	$0
110	0	$0
111	0	$0
112	0	$0
113	0	$0
114	0	$0
115	0	$0
116	0	$0
117	0	$0
118	0	$0
119	0	$0
120	0	$0
Totals	2,560	$18,836,907

* payable at the greater of age 60 or current age

The chart above reflects the counts and benefits used for valuation purposes as a result of data processing.

APPENDIX A
MEMBERSHIP INFORMATION – DBRP ONLY

Montana Public Employees' Retirement System Distribution of Terminated Vested Members as of June 30, 2012



APPENDIX A
MEMBERSHIP INFORMATION – DBRP ONLY

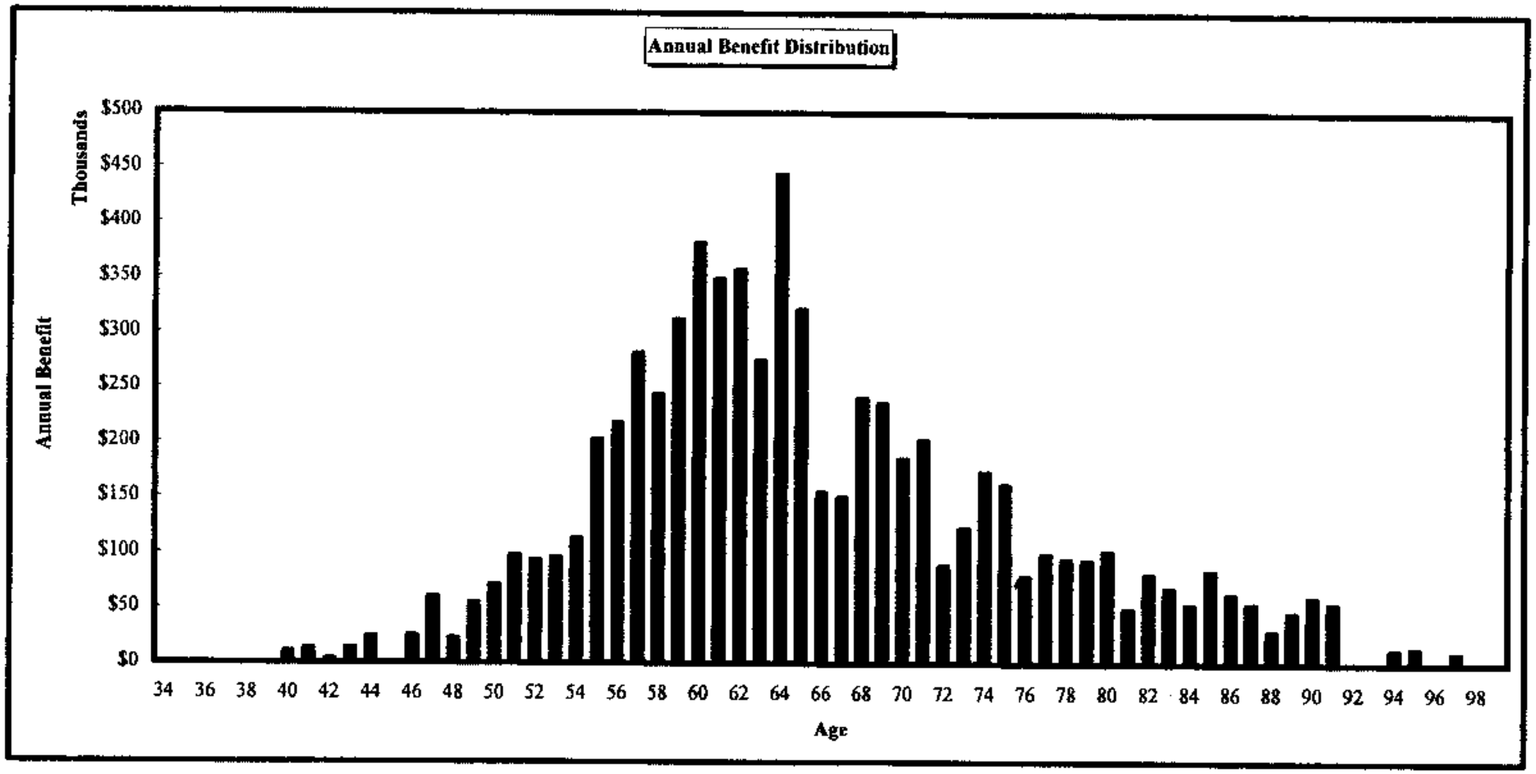
Montana Public Employees' Retirement System Distribution of Disabled Members as of June 30, 2012

Age	Count	Annual Benefit
<25	0	$0
25	0	$0
26	0	$0
27	0	$0
28	0	$0
29	0	$0
30	0	$0
31	0	$0
32	0	$0
33	0	$0
34	0	$0
35	0	$0
36	0	$0
37	0	$0
38	0	$0
39	0	$0
40	1	$9,904
41	1	$12,725
42	1	$3,055
43	2	$12,866
44	3	$23,596
45	0	$0
46	3	$24,049
47	4	$59,230
48	3	$22,085
49	6	$53,754
50	7	$70,909
51	9	$97,325
52	10	$92,876
53	9	$95,390
54	8	$112,774
55	19	$202,586
56	21	$217,915
57	31	$281,000
58	27	$243,471
59	33	$311,455
60	40	$380,806
61	33	$348,415
62	36	$356,803
63	30	$274,118
64	40	$443,767
65	32	$320,727
66	19	$154,111
67	20	$149,680
68	27	$240,189
69	28	$235,558
70	21	$185,143
71	24	$202,317
72	10	$87,915
73	17	$122,460
74	22	$173,020
75	22	$161,416
76	11	$78,510
77	12	$98,667
78	13	$94,227
79	12	$92,836
80	11	$101,417
81	7	$48,865
82	10	$80,398
83	7	$67,929
84	6	$53,285
85	9	$83,804
86	6	$62,645
87	6	$54,040
88	3	$28,804
89	5	$45,463
90	6	$59,758
91	4	$54,061
92	0	$0
93	0	$0
94	1	$12,424
95	1	$13,892
96	0	$0
97	1	$9,997
98	0	$0
99	0	$0
100	0	$0
101	0	$0
102	0	$0
103	0	$0
104	0	$0
105	0	$0
106	0	$0
107	0	$0
108	0	$0
109	0	$0
110	0	$0
111	0	$0
112	0	$0
113	0	$0
114	0	$0
115	0	$0
116	0	$0
117	0	$0
118	0	$0
119	0	$0
120	0	$0
Totals	750	$6,924,433

The chart above reflects the counts and benefits used for valuation purposes as a result of data processing. The benefit amounts shown have been projected using a half year COLA assumption.

APPENDIX A
MEMBERSHIP INFORMATION – DBRP ONLY

Montana Public Employees' Retirement System Distribution of Disabled Members as of June 30, 2012



APPENDIX A
MEMBERSHIP INFORMATION – DBRP ONLY

Montana Public Employees' Retirement System Distribution of Terminated Non-Vested Members* as of June 30, 2012

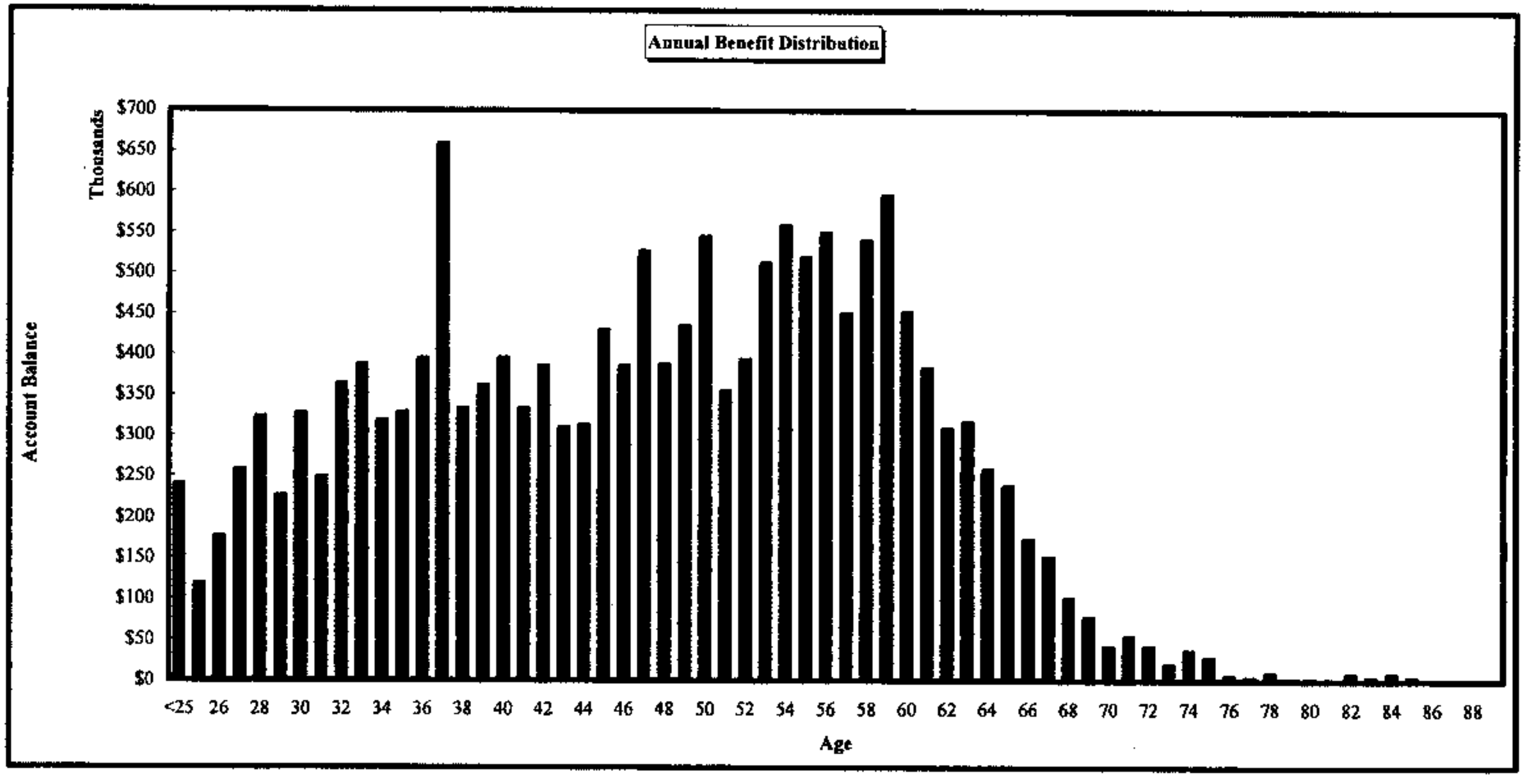
Age	Count	Account Balance	Age	Count	Account Balance
<25	259	$239,057	73	13	$19,165
25	71	$117,392	74	12	$35,083
26	112	$175,414	75	9	$26,733
27	105	$257,499	76	9	$5,050
28	135	$322,228	77	5	$3,348
29	101	$225,865	78	3	$8,203
30	134	$326,538	79	2	$971
31	103	$248,442	80	1	$1,448
32	133	$363,576	81	2	$499
33	142	$386,651	82	4	$7,412
34	122	$317,996	83	2	$3,223
35	128	$327,859	84	2	$7,315
36	129	$394,299	85	3	$3,751
37	716	$658,852	86	0	$0
38	138	$333,186	87	0	$0
39	138	$361,332	88	0	$0
40	152	$394,993	89	0	$0
41	146	$333,764	90	0	$0
42	116	$385,245	91	0	$0
43	152	$309,754	92	0	$0
44	107	$312,298	93	0	$0
45	136	$428,906	94	0	$0
46	133	$385,229	95	0	$0
47	157	$527,274	96	0	$0
48	126	$386,785	97	0	$0
49	145	$435,338	98	0	$0
50	158	$544,817	99	0	$0
51	116	$354,407	100	0	$0
52	124	$393,709	101	0	$0
53	145	$512,174	102	0	$0
54	134	$558,324	103	0	$0
55	150	$519,201	104	0	$0
56	151	$549,567	105	0	$0
57	124	$450,841	106	0	$0
58	122	$539,972	107	0	$0
59	139	$595,514	108	0	$0
60	130	$452,193	109	0	$0
61	103	$383,181	110	0	$0
62	70	$308,469	111	0	$0
63	83	$316,863	112	0	$0
64	65	$258,444	113	0	$0
65	64	$238,480	114	0	$0
66	33	$173,392	115	0	$0
67	38	$151,632	116	0	$0
68	32	$100,308	117	0	$0
69	29	$76,549	118	0	$0
70	19	$40,722	119	0	$0
71	20	$53,617	120	0	$0
72	12	$40,928			
			Totals	6,164	$16,691,276

* Assumes average entry age of 37 for 588 Terminated Non-Vested members either older than 85, younger than 15, or missing a birthdate.

The chart above reflects the counts and benefits used for valuation purposes as a result of data processing.

APPENDIX A
MEMBERSHIP INFORMATION – DBRP ONLY

Montana Public Employees' Retirement System Distribution of Terminated Non-Vested Members as of June 30, 2012



APPENDIX B
ACTUARIAL ASSUMPTIONS AND METHODS

A. Long-Term Assumptions Used to Determine Plan Costs and Liabilities

1. Demographic Assumptions

a. Healthy Retirees, Beneficiaries and Non-Retired Members

Male and Female RP-2000 Combined Employee and Annuitant Mortality Tables. To reflect mortality improvements since the date of the table and to project future mortality improvements, the tables are projected to 2015 using scale AA.

Sample Rates of Healthy Mortality		
Age	Male	Female
50	0.163%	0.130%
55	0.272%	0.241%
60	0.530%	0.469%
65	1.031%	0.900%
70	1.770%	1.553%
75	3.062%	2.492%
80	5.536%	4.129%
85	9.968%	7.076%
90	17.271%	12.588%

b. Disabled Inactive Mortality

Male and Female RP-2000 Combined Employee and Annuitant Mortality Tables with no projections. No future mortality improvement is assumed.

Sample Rates of Disabled Inactive Mortality		
Age	Male	Female
50	0.214%	0.168%
55	0.362%	0.272%
60	0.675%	0.506%
65	1.274%	0.971%
70	2.221%	1.674%
75	3.783%	2.811%
80	6.437%	4.588%
85	11.076%	7.745%
90	18.341%	13.168%

APPENDIX B
ACTUARIAL ASSUMPTIONS AND METHODS

c. Rates of Active Disability

Sample Rates of Active Disability	
Age	Rate
22	0.00%
27	0.01%
32	0.01%
37	0.04%
42	0.10%
47	0.13%
52	0.25%
57	0.36%
62	0.00%

All disabilities are assumed to be permanent and without recovery.

d. Termination of Employment (Prior to Normal Retirement Eligibility)

Service	Rate
0	25%
1	20%
2	15%
3	10%
4	10%
5-9	5%
10-14	5%
15 & over	2%

No terminations are assumed after age 50 with five years of service for either male or female.

e. Probability of Electing a Refund of Member Contributions upon Termination

Probability of Electing Refund		
Age at Term.	Non-Vested	Vested
Under 35	100%	60%
35-39	100%	50%
40-44	100%	45%
45-49	100%	35%
50 & Over	100%	30%

APPENDIX B
ACTUARIAL ASSUMPTIONS AND METHODS

f. Retirement

Annual Retirement Rates		
Age	<30 years	30 years or more and age 60 with 25 years
<50	0.00%	10.00%
50 – 54	3.00	10.00
55	3.00	15.00
56	4.00	15.00
57	5.00	15.00
58	5.00	15.00
59	6.00	15.00
60	8.00	15.00
61	15.00	15.00
62	25.00	25.00
63	15.00	15.00
64	15.00	15.00
65	30.00	30.00
66	30.00	30.00
67	25.00	25.00
68	25.00	25.00
69	25.00	25.00
70 & Over	100.00	100.00

Vested terminations are assumed to retire at their earliest unreduced eligibility.

APPENDIX B
ACTUARIAL ASSUMPTIONS AND METHODS

g. Merit/Seniority Salary Increase (in addition to across-the-board increase)

Service based table plus an annual inflation rate of 4.00% (rates shown below exclude amount for inflation).

Service	Annual Increase
1	6.0%
2	4.9
3	3.9
4	3.1
5	2.4
6	1.8
7	1.4
8	1.0
9	0.7
10	0.5
11-15	0.3
16-20	0.1
21 & over	0.0

h. Family Composition

Female spouses are assumed to be three years younger than males.

100% of non-retired members are assumed married for both male and female members.

Actual marital characteristics are used for pensioners.

i. Vested Benefits for Terminated Members

Vested benefits for members who terminated during years ending June 30, 2009 and later were estimated based upon compensation and service information in the census data. For members who terminated prior to June 30, 2008, vested benefits valued were the same as had been calculated by the prior actuary for the June 30, 2008 actuarial valuation.

APPENDIX B
ACTUARIAL ASSUMPTIONS AND METHODS

2. Economic Assumptions

a. **Rate of Investment Return:**	7.75% (net of expenses)
b. **Rate of Wage Inflation:**	4.00% (3.00% inflation plus 1.00% real wage growth)
c. **Interest on Member Contributions:**	3.50%
d. **Rate of Increase in Total Payroll (for Amortization):**	4.00%

3. Changes since Last Valuation

None.

APPENDIX B
ACTUARIAL ASSUMPTIONS AND METHODS

B. Actuarial Methods

1. Funding Method

The Entry Age Normal Actuarial Cost method is used to determine costs. Under this funding method, a normal cost is determined as a level percent of pay individually for each active member.

The actuarial accrued liability is that portion of the present value of projected benefits that will not be paid by future normal costs. The difference between this liability and funds accumulated as of the same date is referred to as the unfunded actuarial liability.

The portion of the actuarial accrued liability in excess of plan assets is amortized to develop an additional cost or savings which is added to each year's employer normal cost. Under this cost method, actuarial gains and losses are directly reflected in the size of the unfunded actuarial liability.

2. Actuarial Value of Assets

For purposes of determining the unfunded actuarial accrued liability, we use an actuarial value of assets. The asset adjustment method dampens the volatility in asset values that could occur because of fluctuations in market conditions. Use of an asset smoothing method is consistent with the long-term nature of the actuarial valuation process.

The actuarial value of assets is the current market value, adjusted by a four-year smoothing of gains and losses on a market value basis. Each year's gain or loss is determined as the difference between the actual market return and the expected market return using the assumed rate of investment return.

3. Amortization Method

The unfunded actuarial accrued liability is amortized as a level percentage of future payroll. The valuation determines the period over which the statutory contributions will fully amortize the unfunded actuarial accrued liability.

4. Changes since Last Valuation

None.

APPENDIX B
ACTUARIAL ASSUMPTIONS AND METHODS

C. Plan Choice Rate Calculations

The current employer Plan Choice Rate for members of the Defined Contribution Retirement Plan (DCRP) and the Optional Retirement Plan (ORP) who would have been in PERS is determined as follows:

	Percent of Salary
Plan Choice Rate to DBRP (PCR)	2.370%
Additional PCR Contribution	
FY2008 (July 1, 2007)	0.135
FY2010 (July 1, 2009)	0.135
Total Plan Choice Contribution Rate	**2.640%**

The Plan Choice Rate (PCR) is the percent of the employer contribution allocated to the Defined Benefit Retirement Plan for members who choose the Defined Contribution Retirement Plan or the Optional Retirement Plan. The PCR is required by statute and actuarially determined to maintain the financial stability of the Defined Benefit Retirement Plan (DBRP).

Without the PCR, there are two reasons the DBRP costs could potentially increase; one is the financing of the Unfunded Actuarial Liability (UAL) at the time of the transfers, and the other is the potential for an increase in the Normal Cost Rate.

1. The PCR provides that the amortization of the DBRP UAL at the time of the transfer is financed over the sum of payroll of the DBRP and DCRP members. This method ensures a continuation of the amortization schedule that was in place just prior to the transfers. The legislation provided a starting point for this element of the PCR equal to 2.37% of the payroll of DCRP members and the ORP members who would have been in the DBRP.

2. Compared to the members who remain in the DBRP, if the transferring DCRP and ORP members are, on average, either younger at the time of hire, or have a shorter career, the DBRP Normal Cost Rate could increase. The dollar amount of the increase in the DBRP Normal Cost is financed as a percentage of DCRP and ORP payroll. Therefore, the employers whose employees choose the DCRP and ORP will fund any increase in the Normal Cost of the DBRP. This rate is known as the PCR Normal Cost Rate (PCR-NCR).

APPENDIX B
ACTUARIAL ASSUMPTIONS AND METHODS

Amortization Test: The current PCR, less the PCR-NCR, will be available to amortize the remaining PCR-UAL. The initial amortization period was set at 12.75 years as of June 30, 1998. The amortization period will decline by one year each biennium, but the PCR will not change unless the amortization period is more than 10 years different than the scheduled amortization period.

Amortization of PCR-UAL

	Baseline	Acceptable Range	
1998 Valuation	12.75	2.75	22.75
2000 Valuation	11.75	1.75	21.75
2002 Valuation	10.75	0.75	20.75
2004 Valuation	9.75	n/a*	19.75
2006 Valuation	8.75	n/a*	18.75
2008 Valuation	7.75	n/a*	17.75
2010 Valuation	6.75	n/a*	16.75
2012 Valuation	5.75	n/a*	15.75
2014 Valuation	4.75	n/a*	14.75
2016 Valuation	3.75	n/a*	13.75
2018 Valuation	2.75	n/a*	12.75
2020 Valuation	1.75	n/a*	11.75
2022 Valuation	0.75	n/a*	10.75

*Assumes immediate amortization of PCR UAL.
Lower end only applies after 2002 if the PCR UAL is fully amortized.

APPENDIX C
SUMMARY OF PLAN PROVISIONS

1. Membership

The Plan is a multiple-employer cost sharing plan that covers employees of the State, local governments, and certain employees of the university system and school districts, who are not covered by a separate retirement system governed by Title 19 of Montana Code Annotated.

2. Contributions

For members hired on or before June 30, 2011 Members contribute 6.9% of their compensation. Interest is credited at rates determined by the Board.

For new members hired on or after July 1, 2011 Members contribute 7.9% of their compensation. Interest is credited at rates determined by the Board.

Member contributions are made through an "employer pick-up" arrangement which results in deferral of taxes on the contributions.

Employers contribute 6.9% of each member's compensation, increased to 7.035% on July 1, 2007 and 7.17% on July 1, 2009. This is offset by a 0.1% of compensation from the State for local governments and school districts. For school districts, this offset increased to 0.235% on July 1, 2007 and 0.37% on July 1, 2009. These increased contributions and offsets as of 2007 and 2009 will terminate if an actuarial valuation shows that the period required to amortize the system's unfunded liabilities is less than 25 years, and that the termination of those increases would not cause the amortization to increase beyond 25 years.

3. Service Credit

Service used to determine the amount of retirement benefit. One month of service credit is earned for each month where the member is paid for 160 hours. This includes certain transferred and purchased service.

4. Membership Service

Service used to determine eligibility for vesting, retirement or other PERS benefits. One month of membership service is earned for any month member contributions are made to PERS, regardless of the number of hours worked.

5. Highest Average Compensation

For members hired on or before June 30, 2011 Highest Average Compensation is the average of the highest 36 consecutive months (or shorter period of total service) of compensation paid to the member.

APPENDIX C
SUMMARY OF PLAN PROVISIONS

For members hired on or after July 1, 2011 Highest Average Compensation is the average of the highest 60 consecutive months (or shorter period of total service) of compensation paid to the member.

Compensation generally means all remuneration paid, excluding certain allowances, benefits and lump sum payments. Compensation is specifically defined by law

6. **Service Retirement**

Eligibility: **For members hired on or before June 30, 2011** (i) age 60 with five years of membership service; or (ii) age 65 regardless of service; or (iii) any age with 30 years of membership service. **For members hired on or after July 1, 2011** (i) age 65 with five years of membership service; or (ii) age 70 regardless of service.

Benefit: **For members hired on or before June 30, 2011**

(i) If less than 25 years of membership service, the greater of (a) 1/56 of highest average compensation multiplied by years of service credit, or (b) the actuarial equivalent of double the member's regular contributions plus interest plus the actuarial equivalent of any additional contributions plus interest.

(ii) If 25 years of membership service or more, the greater of (a) 2% of highest average compensation multiplied by years of service credit, or (b) above.

For members hired on or after July 1, 2011

(i) If less than 10 years of membership service, the greater of (a) 1.5% of highest average compensation multiplied by years of service credit, or (b) the actuarial equivalent of double the member's regular contributions plus interest plus the actuarial equivalent of any additional contributions plus interest.

(ii) If between 10 and 30 years of membership service, the greater of (a) 1/56 of highest average compensation multiplied by years of service credit, or (b) above.

(iii) If 30 years of membership service or more, the greater of (a) 2% of highest average compensation multiplied by years of service credit, or (b) above.

APPENDIX C
SUMMARY OF PLAN PROVISIONS

7. **Early Retirement**

Eligibility: **For members hired on or before June 30, 2011** (i) age 50 with 5 years of membership service; or (ii) any age with 25 years of membership service.

For members hired on or after July 1, 2011 (i) age 55 with 5 years of membership service.

Benefit: **For members retired prior to October 1, 2011**
The actuarial equivalent of the accrued portion of the service retirement benefit that would have been payable to the member commencing at age 60 or upon completion of 30 years of membership service with the exception that the benefit must be reduced by a factor resulting from multiplying 0.5% (for first five years from service retirement eligibility) or 0.3% (for years six to 10 years from service retirement eligibility) by the number of months by which the retirement date precedes the date at which the member would have attained age 60 or completed 30 years of membership service.

For members hired on or before June 30, 2011
The actuarial equivalent of the accrued portion of the service retirement benefit that would have been payable to the member commencing at age 60 or upon completion of 30 years of membership service with the exception that the benefit must be reduced using actuarially equivalent factors based on the most recent valuation.

For members hired on or after July 1, 2011
The actuarial equivalent of the accrued potion of the service retirement benefit that would have been payable to the member commencing at age 65 with the exception that the benefit must be reduced using actuarially equivalent factors based on the most recent valuation.

8. **Disability Benefit**

Eligibility: Five years of membership service

Benefit: (i) If hired on or before February 24, 1991, the greater of (a) or (b):

(a) Less than 25 years of membership service: 90% of 1/56 of highest average compensation multiplied by service credit.

At least 25 years of membership service: 90% of 1/50 of highest average compensation multiplied by service credit, or

(b) 25% of highest average compensation.

APPENDIX C
SUMMARY OF PLAN PROVISIONS

(ii) If hired after February 24, 1991 and before July 1, 2011:

90% is replaced by 100% in the above formulas, but there is no 25% minimum benefit.

(iii) If hired on or after July 1, 2011:

(a) If less than 10 years of membership service, the greater of (a) 1.5% of highest average compensation multiplied by years of service credit.

(b) If between 10 and 30 years of membership service, the greater of (a) 1/56 of highest average compensation multiplied by years of service credit.

(c) If 30 years of membership service or more, the greater of (a) 2% of highest average compensation multiplied by years of service credit.

9. Survivor's Benefit

Eligibility: Member's status at time of death: (i) active, (ii) within 6 months after severance, (iii) receiving disability benefit for less than 6 months, (iv) continuously disabled without receiving a disability benefit, or (v) inactive.

Benefit: The sum of (i) accumulated contributions plus (ii) monthly compensation multiplied by the lesser of years of service credit or six, plus (iii) interest. However an inactive member's survivor will receive only accumulated contributions.

For the survivor of an active member who had completed five years of membership service, the benefit will be the actuarial equivalent of the accrued retirement benefit at the time of death subject to the minimum in the above paragraph.

A beneficiary may elect to receive the payment as an annuity that is the actuarial equivalent of the amount of benefit.

For retired members receiving the normal form of annuity, a payment will be made equal to the accumulated contributions reduced by any retirement benefits already paid.

10. Vesting

Eligibility: Five years of membership service.

APPENDIX C
SUMMARY OF PLAN PROVISIONS

Benefit: Accrued normal retirement benefit, payable at age 60 (or 65 if hired after June 30, 2011). In lieu of a pension, a member may receive a refund of accumulated contributions. Upon receipt of a refund of contributions a member's vested right to a monthly benefit is forfeited.

11. Withdrawal of Employee Contributions

Eligibility: Terminates service and is not eligible for other benefits.

Benefit: Accumulated employee contributions. Upon receipt of a refund of contributions a member's vested right to a monthly benefit is forfeited.

12. Form of Payment

The normal form of payment is a life annuity with a refund of any remaining account balance to a designated beneficiary. (Option 1)

Optional benefits: (i) Option 2, a joint and 100% survivor benefit, (ii) Option 3, a joint and 50% survivor benefit, and (iii) Option 4, a life annuity with a period certain. If a retiring member selects Option 2 or 3 and the designated beneficiary predeceases the member, the benefit may revert to the higher Option 1 benefit available at retirement or select a different beneficiary and/or a different option if the retiree provides notification within 18 months.

13. Post Retirement Benefit Increases

For retired members who have been retired at least 12 months, a Guaranteed Annual Benefit Adjustment (GABA) will be made each year equal to (i) 3% for members hired before July 1, 2007 and (ii) 1.5% for members hired on or after July 1, 2007.

APPENDIX C
SUMMARY OF PLAN PROVISIONS

14. Changes since Last Valuation

None.

APPENDIX D
GLOSSARY

1. Actuarial Assumptions

Assumptions as to the occurrence of future events affecting pension costs, such as: mortality, withdrawal, disability, and retirement; changes in compensation; inflation; rates of investment earnings, and asset appreciation or depreciation; and other relevant items.

2. Actuarial Cost Method

A procedure for determining the Actuarial Present Value of pension plan benefits and expenses and for developing an allocation of such value to each year of service, usually in the form of a Normal Cost and an Actuarial Liability.

3. Actuarial Gain (Loss)

A measure of the difference between actual experience and that expected based upon a set of Actuarial Assumptions during the period between two Actuarial Valuation dates, as determined in accordance with a particular Actuarial Cost Method.

4. Actuarial Liability

The portion of the Actuarial Present Value of Projected Benefits which will not be paid by future Normal Costs. It represents the value of the past Normal Costs with interest to the valuation date.

5. Actuarial Present Value (Present Value)

The value as of a given date of a future amount or series of payments. The Actuarial Present Value discounts the payments to the given date at the assumed investment return and includes the probability of the payment being made. As a simple example: assume you owe $100 to a friend one year from now. Also, assume there is a 1% probability of your friend dying over the next year, in which case you won't be obligated to pay him. If the assumed investment return is 10%, the actuarial present value is:

Amount		Probability of Payment	1/(1+Investment Return)		
$100	x	(1 - .01)	1/(1+.1)	=	$90

6. Actuarial Valuation

The determination, as of a specified date, of the Normal Cost, Actuarial Liability, Actuarial Value of Assets, and related Actuarial Present Values for a pension plan.

APPENDIX D
GLOSSARY

7. Actuarial Value of Assets

The value of cash, investments and other property belonging to a pension plan as used by the actuary for the purpose of an Actuarial Valuation. The purpose of an Actuarial Value of Assets is to smooth out fluctuations in market values. This way long-term costs are not distorted by short-term fluctuations in the market.

8. Actuarially Equivalent

Of equal Actuarial Present Value, determined as of a given date with each value based on the same set of actuarial assumptions.

9. Amortization Payment

The portion of the pension plan contribution which is designed to pay interest and principal on the Unfunded Actuarial Liability in order to pay for that liability in a given number of years.

10. Entry Age Normal Actuarial Cost Method

A method under which the Actuarial Present Value of the Projected Benefits of each individual included in an Actuarial Valuation is allocated on a level basis over the earnings of the individual between entry age and assumed exit ages.

11. Normal Cost

That portion of the Actuarial Present Value of pension plan benefits and expenses which is allocated to a valuation year by the Actuarial Cost Method.

12. Unfunded Actuarial Liability

The excess of the Actuarial Liability over the Actuarial Value of Assets.

13. Projected Benefits

Those pension plan benefit amounts which are expected to be paid in the future under a particular set of Actuarial Assumptions, taking into account such items as the effect of advancement in age and increases in future compensation and service credits.

14. Funded Percentage

The ratio of the Actuarial Liabilities to the Actuarial Value of Assets.

APPENDIX D
GLOSSARY

15. Mortality Table

A set of percentages which estimate the probability of death at a particular point in time. Typically, the rates are annual and based on age and sex.

16. Investment Return Assumption

The assumed interest rate used for projecting dollar related values in the future.

17. Inflation (CPI)

The assumed increase in dollar related values in the future due to the general increase in the cost-of-living. The usual measure for inflation is the Consumer Price Index (CPI).

HOUSE BILL NO. 382

INTRODUCED BY L. BANGERTER

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT A PORTION OF THE EXPENDABLE PORTION OF COAL SEVERANCE TAX COLLECTIONS BE STATUTORILY APPROPRIATED TO THE TRUST FUNDS FOR THE TEACHERS' RETIREMENT SYSTEM, THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM DEFINED BENEFIT PLAN, THE SHERIFFS' RETIREMENT SYSTEM, AND THE GAME WARDENS' AND PEACE OFFICERS' RETIREMENT SYSTEM UNTIL THE FUNDS ARE ACTUARIALLY SOUND; AMENDING SECTION 15-35-108; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 15-35-108, MCA, is amended to read:

"~~**15-35-108. (Temporary) Disposal of severance taxes.** Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:~~

~~(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.~~

~~(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.~~

~~(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Beginning July 1, 2012, any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.~~

~~(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.~~

EXHIBIT 3

~~(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.~~

~~(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.~~

~~(7) The amount of 5.8% through September 30, 2013, and beginning October 1, 2013, the amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).~~

~~(8) After the allocations are made under subsections (2) through (7), $250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.~~

~~(9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.~~

~~(b) The interest income from $140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:~~

~~(i) $65,000 to the cooperative development center;~~

~~(ii) $625,000 for the growth through agriculture program provided for in Title 90, chapter 9;~~

~~(iii) $1.275 million to the research and commercialization state special revenue account created in 90-3-1002, of which $375,000 per year is appropriated for fiscal years 2012 and 2013 to the department of commerce for the small business state matching grant program authorized in 90-1-117 to provide matching grants for small business innovation research and small business technology transfer, $125,000 per year is appropriated for fiscal years 2012 and 2013 to the high-performance supercomputing program in the department of commerce, and $300,000 per year is appropriated for fiscal years 2012 and 2013 to the board of regents for the development of energy and natural resources doctoral programs at Montana tech of the university of Montana;~~

~~(iv) to the department of commerce:~~

~~(A) $125,000 for a small business development center;~~

~~(B) $50,000 for a small business innovative research program;~~

~~(C) $425,000 for certified regional development corporations;~~

~~(D) $200,000 for the Montana manufacturing extension center at Montana state university-Bozeman; and~~

~~(E) $300,000 for export trade enhancement. (Terminates June 30, 2013--sec. 5, Ch. 459, L. 2009.)~~

15-35-108. ~~(Effective July 1, 2013)~~ (Temporary) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. ~~Beginning July 1, 2012, any~~ Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 5.8% through September 30, 2013, and beginning October 1, 2013, the amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(8) After the allocations are made under subsections (2) through (7), $250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9) (a) Subject to ~~subsection~~ subsections (9)(b) and (9)(c), all other revenue from severance taxes collected under the provisions of this chapter ~~must be credited to the general fund of the state~~ are statutorily appropriated, as provided in 17-7-502, as follows:

(i) 45% to the trust fund of the public employees' retirement system defined benefit plan provided for in 19-3-103;

(ii) 45% to the trust fund of the teachers' retirement system provided for in 19-20-102;

(iii) 5% to the trust fund of the sheriffs' retirement system provided for in 19-7-102; and

(iv) 5% to the trust fund of the game wardens' and peace officers' retirement system provided for in 19-8-102.

(b) (i) Except as provided in subsection (9)(b)(ii), on January 1 following an actuarial valuation showing that the unfunded liabilities of a retirement system or plan listed in subsection (9)(a) amortize in 30 years or less and that termination of the statutory appropriation to the system's or plan's trust fund under subsection (9)(a) would not result in an amortization period of more than 30 years, the statutory appropriation terminates and the revenue that was appropriated to the retirement system must be credited to the general fund.

(ii) (A) If the public employees' retirement system defined benefit plan meets the conditions under subsection (9)(b)(i) before the teachers' retirement system meets the conditions, the statutory appropriation of 45% of revenue under subsection (9)(a)(i) terminates on January 1 following the valuation and the 45% of revenue is statutorily appropriated to the teachers' retirement system trust fund in addition to the statutory appropriation under subsection (9)(a)(ii).

(B) If the teachers' retirement system meets the conditions under subsection (9)(b)(i) before the unfunded liabilities of the public employees' retirement system defined benefit plan meets the conditions, the statutory appropriation of 45% of revenue under subsection (9)(a)(ii) terminates on January 1 following the valuation and the 45% of revenue is statutorily appropriated to the public employees' retirement system defined benefit plan trust fund in addition to the statutory appropriation under subsection (9)(a)(i).

~~(b)~~(c) The interest income from $140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

(i) $65,000 to the cooperative development center;

(ii) $1.25 million for the growth through agriculture program provided for in Title 90, chapter 9;

(iii) $3.65 million to the research and commercialization state special revenue account created in 90-3-1002;

(iv) to the department of commerce:

(A) $125,000 for a small business development center;

(B) $50,000 for a small business innovative research program;

(C) $425,000 for certified regional development corporations;

(D) $200,000 for the Montana manufacturing extension center at Montana state university-Bozeman; and

(E) $300,000 for export trade enhancement. (Terminates June 30, 2019--secs. 2, 3, Ch. 459, L. 2009.)

15-35-108. (Effective July 1, 2019) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Beginning July 1, 2012, any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(8) After the allocations are made under subsections (2) through (7), $250,000 for the fiscal year must

be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9) (a) ~~All~~ Subject to subsection (9)(b), all other revenue from severance taxes collected under the provisions of this chapter ~~must be credited to the general fund of the state~~ are statutorily appropriated, as provided in 17-7-502, as follows:

(i) 45% to the trust fund of the public employees' retirement system defined benefit plan provided for in 19-3-103;

(ii) 45% to the trust fund of the teachers' retirement system provided for in 19-20-102;

(iii) 5% to the trust fund of the sheriffs' retirement system provided for in 19-7-102; and

(iv) 5% to the trust fund of the game wardens' and peace officers' retirement system provided for in 19-8-102.

(b) (i) Except as provided in subsection (9)(b)(ii), on January 1 following an actuarial valuation showing that the unfunded liabilities of a retirement system or plan listed in subsection (9)(a) amortize in 30 years or less and that termination of the statutory appropriation to the system's or plan's trust fund under subsection (9)(a) would not result in an amortization period of more than 30 years, the statutory appropriation terminates and the revenue that was appropriated to the retirement system must be credited to the general fund.

(ii) (A) If the public employees' retirement system defined benefit plan meets the conditions under subsection (9)(b)(i) before the teachers' retirement system meets the conditions, the statutory appropriation of 45% of revenue under subsection (9)(a)(i) terminates on January 1 following the valuation and the 45% of revenue is statutorily appropriated to the teachers' retirement system trust fund in addition to the statutory appropriation under subsection (9)(a)(ii).

(B) If the teachers' retirement system meets the conditions under subsection (9)(b)(i) before the unfunded liabilities of the public employees' retirement system defined benefit plan meets the conditions, the statutory appropriation of 45% of revenue under subsection (9)(a)(ii) terminates on January 1 following the valuation and the 45% of revenue is statutorily appropriated to the public employees' retirement system defined benefit plan trust fund in addition to the statutory appropriation under subsection (9)(a)(i)."

NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 2013.

- END -

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COUNSEL FOR DEFENDANTS

RECEIVED
JUN 16 2014
BROWNING, KALECZYC, BERRY & HOVEN, PC

MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY

ASSOCIATION OF MONTANA RETIRED PUBLIC EMPLOYEES, RUSSELL WRIGG, MARLYS HURLBERT, CAROLE CAREY, I. EDWARD SONDENO, Plaintiffs, v. STATE OF MONTANA, MONTANA PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION, PUBLIC EMPLOYEE RETIREMENT BOARD, GOVERNOR STEVE BULLOCK, in his official capacity, Defendants.	Cause No. CDV-2013-788 **DEFENDANTS' RESPONSE TO PLAINTIFFS' FIRST SET OF DISCOVERY REQUESTS**

REQUEST FOR ADMISSION NO. 1: Please admit that HB 454 of the 2013 Legislative Session as originally introduced did not reduce the Guaranteed Annual Benefit Adjustment ("GABA").

RESPONSE: Admit.

EXHIBIT
tabbles
7

INTERROGATORY NO. 21: Considering that Mont. Const. Art. VIII, Sec. 15, provides that "Public retirement system assets ... shall be held in trust to provide benefits to participants and their beneficiaries and to defray administrative expenses", is it your contention that the GABA provided for in Mont. Code Ann. § 19-3-1605 is not a benefit to PERS retirees? If so, please explain in a detailed narrative.

ANSWER: Yes, the adjustment provided for in Mont. Code Ann. § 19-3-1605 is a yearly adjustment to the benefit, not the benefit itself. The "service retirement benefit payable following retirement to a member" is set forth in Mont. Code Ann. § 19-3-904.

INTERROGATORY NO. 22: If you answer any of Plaintiffs' Requests for Admission with a response other than an unqualified admission, please set forth fully for each request and with specificity the factual basis for your refusal to unqualifiedly admit the request.

ANSWER: Objection. Plaintiffs to date have propounded 34 requests for admission and 26 interrogatories, and therefore this interrogatory may violate Mont. R. Civ. P. 33(a)(1). Without waiving this objection, see responses to each request for admission.

INTERROGATORY NO. 23: What alternatives were considered and rejected other than reducing the GABA in order to restore the actuarial soundness of PERS? For each, provide a detailed narrative identifying the alternative, when it was considered, and why it was not implemented.

ANSWER: Objection, this interrogatory is overly broad, vague, and unduly burdensome because it does not identify a subject that may have considered alternatives (alternatives considered by whom?) and does not contain a time period. Additionally why certain alternatives were not implemented, when ascertainable, is a matter of legislative record, as accessible to Plaintiffs as to Defendants, and are available to Plaintiffs pursuant to Mont. R. Civ. P. 33(d).

Without waiving the objection, potentially responsive bills and measures proposed in 2011 and 2013 offering alternatives include:

HB 383 (2013) and HB 632 (2011); HB 338 (2013); SB 333 (2013); HB 122 (2011).

REQUEST FOR PRODUCTION NO. 15: Please produce all training materials, emails, presentation outlines and documents of any kind including electronically stored information, where you represent that any state, county, or local government employee will be eligible to receive a 3% GABA.

RESPONSE: *See* MPERA documents referencing the 3% GABA on the attached CD and attached VHS Cassette. Emails are generally only retained by MPERA for 30 days. Most emails referencing a 3% GABA would be significantly older. Those that were located after a reasonable search was conducted are included on the CD.

REQUEST FOR PRODUCTION NO. 16: Please produce all records, and documents of any kind where you discuss in any manner a state, county, or local government employee being eligible to receive a 3% GABA.

RESPONSE: See documents on the attached CD and attached VHS Cassette.

Pension Fund Fiscal Note 2015 Biennium

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Bill #	HB0454	**Title:**	Provide funding for the public employees' retirement system defined benefit plan
Primary Sponsor:	McChesney, Bill	**Status:**	As Introduced

Retirement Systems Affected: ☐ Teachers ☑ Public Employees ☐ Highway Patrol ☐ Police ☐ Sheriffs ☐ Firefighters ☐ Volunteer Firefighters ☐ Game Wardens ☐ Judges

EXHIBIT 10

Check the box if "Yes".

- ☑ Has this legislation been reviewed by the legislative interim committee?
- ☑ Has the cost of this legislation been calculated by the system's actuary?
- ☑ Does this legislation include full funding for any benefit revisions?

(Dollar Amounts in Thousands)	July 1, 2012 Current System	July 1, 2012 With Changes	Increase/ (Decrease)
Present Value of Actuarial Accrued Liability	\$5,661,281	\$5,663,750	\$2,469
Present Value of Actuarial Assets	\$3,816,920	\$3,816,920	\$0
Unfunded Actuarial Accrued Liability (UAAL)	\$1,844,361	\$1,846,830	\$2,469
Amortization Period (years) of UAAL	DNA	DNA	0.00
Change in normal costs	11.80%	11.83%	0.03%
Amortization Period of UAAL with CST FY 2014	DNA	36.70	NA

PERS	FY 2013 July 1, 2012	FY 2014 July 1, 2013	FY 2015 July 1, 2014	FY 2016 July 1, 2015	FY 2017 July 1, 2016
Employee Contr Rate prior 7/1/2011	6.90%	7.90%	7.90%	7.90%	7.90%
Employee Contr Rate 7/1/2011	7.90%	7.90%	7.90%	7.90%	7.90%
State and MUS Contribution Rat	7.17%	8.17%	8.17%	8.17%	8.17%
State Contribution Rate	0.00%	0.00%	0.00%	0.00%	0.00%
Local Govt Contribution Rate	7.07%	8.07%	8.07%	8.07%	8.07%
State Contribution Rate	0.10%	0.10%	0.10%	0.10%	0.10%
School District Contribution Rat	6.80%	7.80%	7.80%	7.80%	7.80%
State Contribution Rate	0.37%	0.37%	0.37%	0.37%	0.37%
TOTAL Contribution Rate	15.07%	16.07%	16.07%	16.07%	16.07%

FISCAL SUMMARY

	FY 2014 Difference	FY 2015 Difference	FY 2016 Difference	FY 2017 Difference
Expenditures:				
General Fund	$37,292,546	$38,385,546	$39,108,288	$39,866,899
State Special Revenue	$1,688,905	$1,688,905	$1,756,461	$1,826,720
Federal Special Revenue	$1,149,658	$1,149,658	$1,195,644	$1,243,470
Proprietary	$669,831	$669,831	$696,624	$724,489
MUS tuition/other	$489,974	$509,573	$529,956	$551,154
Other - Local Govt	$4,190,000	$4,360,000	$4,530,000	$4,710,000
Other - School Distr	$1,510,000	$1,570,000	$1,630,000	$1,700,000
Other - Members	$10,370,000	$10,780,000	$11,210,000	$11,660,000
Revenue:				
General Fund	$0	$0	$0	$407,000
State Special Revenue	$0	$0	$0	$0
Federal Special Revenue	$0	$0	$0	$0
Other - TSEP/RRGL Interest	$0	$0	$0	($407,000)
Other - PERS	$603,360,914	$62,113,513	$63,656,974	$65,282,732
Net Impact-General Fund Balance:	($37,292,546)	($38,385,546)	($39,108,288)	($39,459,899)

Description of fiscal impact: HB 454 provides additional funding to amortize the unfunded liabilities of the Public Employee Retirement System (PERS) through increased contributions and revenue and interest earnings derived from natural resource development. The bill includes appropriations for the additional 1% employer contribution for state agencies and the Montana University System. The Unfunded Actuarial Accrued Liability (UAAL) of PERS is reduced from "Does Not Amortize" (DNA) to 36.7 years as a result of HB 454. Beginning in FY 2017, the bill allocates three-eighths of coal severance tax revenue to the coal tax permanent fund and eliminates the allocations to the Treasure State Endowment Fund and the Treasure State Endowment Regional Water System Fund. Over time, this will increase the amount of interest earnings that are transferred to the state general fund.

FISCAL ANALYSIS

Assumptions:

Public Employees' Retirement System (PERS)

1. Member contribution rates for all active members would be set at 7.9%. The current rate is 6.9% for all members hired before July 1, 2011 and 7.9% for those members hired on or after July 1, 2011.
2. The contribution rate would decrease to 6.9% for all members once the amortization period goes below 25 years and remains below 25 years after the contribution rate is reduced.
3. The employer contribution rate would increase by 1% bringing the total contribution rate, including the state portion, to 8.17%.
4. The bill includes appropriations in Section 9 for the additional 1% employer contribution for state agencies and the MUS.

5. The additional 1% contribution would be eliminated along with the current temporary contribution rate of 0.27% once the amortization period goes below 25 years and remains below 25 years after the contribution rate is reduced by the total of 1.27%.
6. An allocation of coal tax revenues will be contributed to the plan each year.
7. The termination of the temporary funding sources is applied at once for both the member and employer contributions when the system's amortization period is below 25 years.
8. Coal severance tax projections were developed using OBPP revenue estimates for FY 2014 thru FY 2017 and are inflated by 2% each year thereafter for the actuarial analysis of PERS as a result of HB 454.
9. The fiscal impact presented by the actuary assumes that this bill is the only amendment being considered. If other changes are also adopted, the fiscal impact associated with this bill could be different.
10. There have been no adjustments for actuarial gains and losses or for changes in membership or financial data since the last valuation as of June 30, 2012.
11. The actuarial calculations are based upon the data, actuarial methods, and assumptions as were used in the Actuarial Valuations of the systems as of June 30, 2012.
12. The assumptions are based on the likely future experience of the systems and represent a best estimate for future experience. The results are dependent upon future experience conforming to the assumptions used.

Department of Agriculture (AGR)

13. Under current law, beginning July 1, 2013, the Growth Through Agriculture program would receive a statutory appropriation of $1.25 million from the interest earnings of the coal tax permanent fund.
14. HB 454 would maintain the statutory appropriation for this purpose at the 2013 biennium level of $625,000 per year.
15. As a result of HB 454, the department would reduce by $625,000 the amount available for grants or loans for agricultural related economic development.

Department of Commerce (DoC)

16. Under current law, beginning July 1, 2013, the Research and Commercialization account would receive a statutory appropriation of $3.65 million from the interest earnings of the coal tax permanent fund.
17. HB 454 would maintain the statutory appropriation for this purpose at the 2013 biennium level of $1.275 million per year.
18. Section 1 of the bill amends 15-35-108, MCA, and reduces the general fund transfer to the Research and Commercialization state special revenue account from $3.65 million each fiscal year to $1.275 million each fiscal year. This reduction means the Montana Board of Research Commercialization Technology will fund 18 fewer research and commercialization projects annually.
19. Section 2 of the bill stops the flow of coal severance tax bond fund revenues to the Treasure State Endowment Fund on June 30, 2016. Under current law coal severance tax bond fund revenues to the Treasure State Endowment Fund would have expired on June 30, 2020.
20. Beginning in FY 2014, this bill would statutorily appropriate coal severance tax revenue deposited in the general fund to the Public Employees Retirement System (PERS) trust fund. OBPP's forecast of general fund revenue from the coal severance tax is $16.874 million for FY 2014, $17.968 million for FY 2015, $18.593 million for FY 2016, and $19.251 million for FY 2017.
21. Half of coal severance tax revenue is deposited in the coal tax trust funds. Under current law, through FY 2020 half of this revenue is deposited in the Treasure State Endowment Fund, one-fourth is deposited in the Treasure State Endowment Regional Water System Fund, and one-fourth is deposited in the Big Sky Economic Development Fund. Beginning in FY 2021, three-fourths is deposited in the Coal Tax Permanent Fund and one-fourth is deposited in the Big Sky Economic Development Fund. This bill makes this change in allocation formulas occur at the beginning of FY 2017.
22. The change in coal severance tax allocation at the beginning of FY 2017 would change the trust fund balances and interest earnings beginning in FY 2017. Coal severance tax is collected quarterly, thirty days after the end of the quarter. Because the changes in revenue deposited in the trust funds occur at the end of the fourth month, the end of the seventh month, the end of the tenth month, and at fiscal year-end, the

changes in the average interest-earning balance in FY 2017 will be 31.25% of the changes in revenue. The following table shows the differences in allocation of coal severance tax and interest earning for FY 2014 through FY 2017.

Changes in Revenue Allocations ($ million)

	FY 2014	FY 2015	FY 2016	FY 2017
Coal Severance Tax				
Coal Trust Permanent Fund	0	0	0	27.297
Treasure State Endowment Fund	0	0	0	-18.198
TSE Regional Water System Fund	0	0	0	-9.099
Trust Fund Interest Earnings				
General Fund	0	0	0	0.407
TSE Income Fund	0	0	0	-0.271
TSERWSF Income Fund	0	0	0	-0.135

22. 17-1-508, MCA requires analysis of the statutory appropriation relative to the guidance in 17-1-508(2), MCA, to be published in the fiscal note. In reviewing and establishing statutory appropriations, the legislature shall consider the following guidelines.

	YES	NO
a. The fund or use requires an appropriation.	x	
b. The money is not from a continuing, reliable, and estimable source.		x
c. The use of the appropriation or the expenditure occurrence is not predictable and reliable.		x
d. The authority does not exist elsewhere.	x	
e. An alternative appropriation method is not available, practical, or effective.	x	
f. Other than for emergency purposes, it does not appropriate money from the state general fund.		x
g. The money is dedicated for a specific use.	x	
h. The legislature wishes the activity to be funded on a continual basis.	x	
i. When feasible, an expenditure cap and sunset date are included.	x	

Fiscal Impact:	**FY 2014 Difference**	**FY 2015 Difference**	**FY 2016 Difference**	**FY 2017 Difference**
Expenditures:				
Stat Approp to PERS	$37,874,000	$38,967,000	$39,593,000	$40,251,000
SA Approp to State Agencies	($3,000,000)	($3,000,000)	($3,000,000)	($3,000,000)
Employer (ER) Contribution:	$12,116,914	$12,366,513	$12,853,974	$13,371,732
Employee (EE) Contribution:	$10,370,000	$10,780,000	$11,210,000	$11,660,000
TOTAL Expenditures	$57,360,914	$59,113,513	$60,656,974	$62,282,732
Funding of Expenditures:				
GF (01) - Stat Approp PERS	$37,874,000	$38,967,000	$39,593,000	$40,251,000
GF (01) - Stat Approp Agenc	($3,000,000)	($3,000,000)	($3,000,000)	($3,000,000)
GF (01) ER Contributions	$1,870,019	$1,870,019	$1,944,820	$2,022,613
GF (01)-MUS ER Contributi	$548,527	$548,527	$570,468	$593,287
SSR (02) ER Contributions	$1,688,905	$1,688,905	$1,756,461	$1,826,720
FSR (03) ER Contributions	$1,149,658	$1,149,658	$1,195,644	$1,243,470
Proprietary (06) ER Contrib.	$669,831	$669,831	$696,624	$724,489
MUS Tuition/Other ER Con	$489,974	$509,573	$529,956	$551,154
Other - Local Govt ER Contr	$4,190,000	$4,360,000	$4,530,000	$4,710,000
Other - School Distr ER Con	$1,510,000	$1,570,000	$1,630,000	$1,700,000
Other - Members EE Contrib	$10,370,000	$10,780,000	$11,210,000	$11,660,000
TOTAL Funding of Exp.	$57,360,914	$59,113,513	$60,656,974	$62,282,732
Revenues:				
General Fund (01)	$0	$0	$0	$407,000
State Special Revenue (02)	$0	$0	$0	$0
Federal Special Revenue (03)	$0	$0	$0	$0
Proprietary (06)	$0	$0	$0	$0
MUS Tuition/Other	$0	$0	$0	$0
Other - Local Govt/School D	$0	$0	$0	$0
Other - TSEP/RRGL Interest	$0	$0	$0	($407,000)
Other - PERS Trust	$60,360,914	$62,113,513	$63,656,974	$65,282,732
TOTAL Revenues	$60,360,914	$62,113,513	$63,656,974	$65,282,732
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($37,292,546)	($38,385,546)	($39,108,288)	($39,459,899)
State Special Revenue (02)	($1,688,905)	($1,688,905)	($1,756,461)	($1,826,720)
Federal Special Revenue (03)	($1,149,658)	($1,149,658)	($1,195,644)	($1,243,470)
Proprietary (06)	($669,831)	($669,831)	($696,624)	($724,489)
MUS Tuition/Other	($489,974)	($509,573)	($529,956)	($551,154)
Other - Local Govt	($4,190,000)	($4,360,000)	($4,530,000)	($4,710,000)
Other - School Districts	($1,510,000)	($1,570,000)	($1,630,000)	($1,700,000)
Other - TSEP/RRGL Interest	$0	$0	$0	($407,000)
Other - PERS Trust	$60,360,914	$62,113,513	$63,656,974	$65,282,732

Effect on Local Governments:

1. Local Governments and School Districts each pay an additional 1% in employer contributions until the year 2033 when the funding is projected to drop below 25 years and the additional 1% contribution would be eliminated.
2. The fiscal impact to local government and the school districts is illustrated in the table below:

Fiscal Year	**2014**	**2015**	**2016**	**2017**
Local Govt ER Contributions	$4,190,000	$4,360,000	$4,530,000	$4,710,000
School Dist ER Contributions	$1,510,000	$1,570,000	$1,630,000	$1,700,000

Long-Term Impacts:

1. PERS is projected to become actuarial sound in the year 2019 when the unfunded liability would be paid within 28.1 years.
2. For the employees, the 1% additional contribution is projected to be eliminated in the year 2033.
3. For the employers, the 1% additional contribution and the 0.27% contribution is projected to be eliminated in the year 2033.
4. The state is projected to experience a savings beginning in 2033 for the 0.27% that is paid on behalf of the school districts.

WBMc | | [signature] | 2/19/13
Sponsor's Initials | *Date* | *Budget Director's Initials* | *Date*

Group: PERS
Scenario: HB 454 ver 1

Fiscal Year	Funded Status	Employee Rate	Employer Rate	Coal Tax Contrib.	Total Contrib	Amort Period	ARC	Statutory Shortfall	Total Shortfall
2013	67%	7.01%	7.13%	0.00%	14.14%	N/A	20.67%	6.53%	6.53%
2014	69%	7.90%	8.13%	3.13%	19.16%	36.7	20.00%	3.97%	0.85%
2015	70%	7.90%	8.13%	3.09%	19.12%	32.6	19.48%	3.45%	0.36%
2016	70%	7.90%	8.13%	3.02%	19.05%	33.0	19.46%	3.43%	0.41%
2017	71%	7.90%	8.13%	2.96%	18.99%	31.6	19.22%	3.19%	0.23%
2018	71%	7.90%	8.13%	2.87%	18.90%	30.5	18.97%	2.94%	0.07%
2019	72%	7.90%	8.13%	2.99%	19.02%	28.1	18.72%	2.69%	-0.30%
2020	72%	7.90%	8.13%	2.90%	18.93%	27.0	18.45%	2.42%	-0.48%
2021	73%	7.90%	8.13%	2.81%	18.84%	26.0	18.19%	2.16%	-0.65%
2022	74%	7.90%	8.13%	2.73%	18.76%	25.0	17.93%	1.90%	-0.83%
2023	74%	7.90%	8.13%	2.65%	18.68%	24.0	17.67%	1.64%	-1.01%
2024	75%	7.90%	8.13%	2.57%	18.60%	23.1	17.41%	1.38%	-1.19%
2025	75%	7.90%	8.13%	2.50%	18.53%	22.1	17.16%	1.13%	-1.37%
2026	76%	7.90%	8.13%	2.43%	18.46%	21.2	16.90%	0.87%	-1.56%
2027	76%	7.90%	8.13%	2.35%	18.38%	20.2	16.64%	0.61%	-1.75%
2028	77%	7.90%	8.13%	2.29%	18.32%	19.3	16.38%	0.35%	-1.94%
2029	78%	7.90%	8.13%	2.22%	18.25%	18.4	16.11%	0.08%	-2.14%
2030	78%	7.90%	8.13%	2.16%	18.19%	17.5	15.85%	-0.18%	-2.34%
2031	79%	7.90%	8.13%	2.09%	18.12%	16.6	15.58%	-0.45%	-2.55%
2032	80%	7.90%	8.13%	2.03%	18.06%	15.6	15.30%	-0.73%	-2.76%
2033	81%	6.90%	6.86%	1.98%	15.74%	23.6	14.99%	1.23%	-0.75%
2034	81%	6.90%	6.86%	1.92%	15.68%	22.8	14.83%	1.07%	-0.85%
2035	82%	6.90%	6.86%	1.87%	15.63%	22.0	14.67%	0.91%	-0.96%
2036	82%	6.90%	6.86%	1.81%	15.57%	21.2	14.50%	0.74%	-1.07%
2037	83%	6.90%	6.86%	1.76%	15.52%	20.3	14.34%	0.58%	-1.18%
2038	84%	6.90%	6.86%	1.71%	15.47%	19.5	14.17%	0.41%	-1.30%
2039	84%	6.90%	6.86%	1.67%	15.43%	18.6	14.01%	0.25%	-1.42%
2040	85%	6.90%	6.86%	1.62%	15.38%	17.8	13.84%	0.08%	-1.54%
2041	86%	6.90%	6.86%	1.57%	15.33%	16.9	13.66%	-0.10%	-1.67%
2042	87%	6.90%	6.86%	1.53%	15.29%	16.0	13.49%	-0.27%	-1.80%

6

SENATE FINANCE & CLAIMS

Exhibit No. 6

Date 4-16-2013

Bill No. HB 454

Amendments to House Bill No. 454
3rd Reading Copy

Senator Jon Sesso

For Senate Finance and Claims

Prepared by Sheri Scurr
April 16, 2013 (9:29am)

1. Title, page 1, line 13.
Following: "~~FUND;~~"
Insert: "PROVIDING THAT THE UNALLOCATED PORTION OF COAL SEVERANCE TAX COLLECTIONS IS STATUTORILY APPROPRIATED TO THE PUBLIC EMPLOYEES' DEFINED BENEFIT RETIREMENT PLAN; REVISING THE ALLOCATION OF INTEREST INCOME FROM THE COAL TAX PERMANENT FUND AND PROVIDING A STATUTORY APPROPRIATION OF A PORTION OF THE INTEREST INCOME TO THE PUBLIC EMPLOYEES' DEFINED BENEFIT RETIREMENT PLAN; AMENDING THE TERMINATION DATE FOR THE TRANSFER OF CERTAIN MONEY FROM THE COAL SEVERANCE TAX BOND FUND TO THE TREASURE STATE ENDOWMENT FUND AND THE TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM FUND;"

2. Title, page 1, line 16.
Following: "~~BIENNIUM;~~"
Insert: "PROVIDING AN APPROPRIATION;"

3. Title, page 1, line 17.
Strike: "17-7-502,"
Insert: "15-35-108, 17-5-703,"

4. Title, page 1, line 19.
Strike: "REPEALING" through "MCA;"
Insert: "AMENDING SECTION 6, CHAPTER 495, LAWS OF 1999, AND SECTIONS 15 AND 16, CHAPTER 389, LAWS OF 2011;"

5. Page 9, line 22 through page 10, line 30.
Strike: section 1 in its entirety
Insert: "**Section 1.** Section 15-35-108, MCA, is amended to read:

"~~**15-35-108. (Temporary) Disposal of severance taxes.** Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:~~

~~(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.~~

~~(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.~~

EXHIBIT 11

~~(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Beginning July 1, 2012, any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.~~

~~(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.~~

~~(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.~~

~~(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.~~

~~(7) The amount of 5.8% through September 30, 2013, and beginning October 1, 2013, the amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).~~

~~(8) After the allocations are made under subsections (2) through (7), $250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.~~

~~(9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.~~

~~(b) The interest income from $140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:~~

~~(i) $65,000 to the cooperative development center;~~

~~(ii) $625,000 for the growth through agriculture program provided for in Title 90, chapter 9;~~

~~(iii) $1.275 million to the research and commercialization state special revenue account created in 90-3-1002, of which $375,000 per year is appropriated for fiscal years 2012 and 2013 to the department of commerce for the small business state matching grant program authorized in 90-1-117 to provide matching grants for small business innovation research and small business technology transfer, $125,000 per year is appropriated for fiscal years 2012 and 2013 to the high performance supercomputing~~

~~program in the department of commerce, and $300,000 per year is appropriated for fiscal years 2012 and 2013 to the board of regents for the development of energy and natural resources doctoral programs at Montana tech of the university of Montana;~~

~~(iv) to the department of commerce:~~

~~(A) $125,000 for a small business development center;~~

~~(B) $50,000 for a small business innovative research program;~~

~~(C) $425,000 for certified regional development corporations;~~

~~(D) $200,000 for the Montana manufacturing extension center at Montana state university-Bozeman; and~~

~~(E) $300,000 for export trade enhancement. (Terminates June 30, 2013--sec. 5, Ch. 459, L. 2009.)~~

15-35-108. (~~Effective July 1, 2013~~ Temporary) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. ~~Beginning July 1, 2012, any~~ Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol

and for other cultural and aesthetic projects.

(7) The amount of 5.8% through September 30, 2013, and beginning October 1, 2013, the amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(8) After the allocations are made under subsections (2) through (7), $250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state and is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the trust fund for the public employees' retirement system defined benefit plan established pursuant to 19-3-103.

(b) The interest income from $140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on ~~an annual basis~~ July 1 each year as follows:

(i) $65,000 to the cooperative development center;

(ii) ~~$1.25 million~~ $625,000 for the growth through agriculture program provided for in Title 90, chapter 9;

(iii) ~~$3.65~~ $1.275 million to the research and commercialization state special revenue account created in 90-3-1002;

(iv) to the department of commerce:

(A) $125,000 for a small business development center;

(B) $50,000 for a small business innovative research program;

(C) $425,000 for certified regional development corporations;

(D) $200,000 for the Montana manufacturing extension center at Montana state university-Bozeman; and

(E) $300,000 for export trade enhancement; and

(v) except as provided in subsection (9)(c), up to $21 million to the public employees' retirement system defined benefit plan trust fund.

(c) If the legislative finance committee determines that the public employees' retirement board has failed to provide a sufficient report pursuant to [section 7], $5 million must be subtracted from the amount allocated in subsection (9)(b)(v). (Terminates June 30, 2019--secs. 2, 3, Ch. 459, L. 2009.)

15-35-108. (Effective July 1, 2019) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is

allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. ~~Beginning July 1, 2012, any~~ Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(8) After the allocations are made under subsections (2) through (7), $250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9) <u>(a)</u> ~~All~~ <u>Subject to subsection (9)(b), all</u> other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state <u>and is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the trust fund for the public employees' retirement system defined benefit plan pursuant to 19-3-103.</u>

<u>(b) Except as provided in subsection (9)(c), up to $24 million of the interest income from the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the public employees' retirement system defined benefit plan trust fund.</u>

<u>(c) If the legislative finance committee determines that the public employees' retirement board has failed to provide a sufficient report pursuant to [section 7], $5 million must be subtracted from the amount allocated in subsection (9)(b).</u>"

{*Internal References to 15-35-108:*

2-17-805 *17-7-205* *17-7-502* *17-7-502*
22-2-301 *22-2-304* *22-2-321* *23-1-108*
76-15-530 *32-4-244* *90-6-1001* *all ok/ddb)"*

Insert: "Section 2. Section 17-5-703, MCA, is amended to read:

"**17-5-703. (Temporary) Coal severance tax trust funds.** (1) The trust established under Article IX, section 5, of the Montana constitution is composed of the following funds:

(a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;

(b) a treasure state endowment fund;

(c) a treasure state endowment regional water system fund;

(d) a coal severance tax permanent fund;

(e) a coal severance tax income fund; and

(f) a big sky economic development fund.

(2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12 months and retain that amount in the coal severance tax bond fund.

(b) The amount in the coal severance tax bond fund in excess of the amount required in subsection (2)(a) must be transferred from that fund as provided in subsections (3) and (4).

(3) (a) Until June 30, ~~2020~~ 2016, the state treasurer shall quarterly transfer to the treasure state endowment fund 50% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(b) Until June 30, ~~2020~~ 2016, the state treasurer shall quarterly transfer to the treasure state endowment regional water system fund 25% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(c) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure state endowment special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund.

(d) The state treasurer shall monthly transfer from the treasure state endowment regional water system fund to the treasure state endowment regional water system special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account for regional water systems authorized under 90-6-715. Earnings not transferred to the treasure state endowment regional water system special revenue account must be retained in the treasure state endowment regional water system fund.

(4) (a) From July 1, 2005, through June 30, 2025, the state treasurer shall quarterly transfer to the big sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall monthly transfer from the big sky economic development fund to the economic development special revenue account, provided for in 90-1-205, the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-1-204. Earnings not transferred to the economic development special revenue account must be retained in the big sky economic development fund.

(5) Any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund. (Terminates June 30, ~~2020~~ 2016--secs. 15, 16, Ch. 389, L. 2011.)

17-5-703. (Effective July 1, ~~2020~~ 2016) Coal severance tax trust funds. (1) The trust established under Article IX, section 5, of the Montana constitution is composed of the following funds:

(a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;

(b) a treasure state endowment fund;

(c) a coal severance tax permanent fund;

(d) a coal severance tax income fund; and

(e) a big sky economic development fund.

(2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12 months and retain that amount in the coal severance tax bond fund.

(b) The amount in the coal severance tax bond fund in excess of the amount required in subsection (2)(a) must be transferred from that fund as provided in subsections (3) and (4).

(3) (a) Until June 30, ~~2020~~ 2016, the state treasurer shall quarterly transfer to the treasure state endowment fund 50% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure state endowment special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund.

(4) (a) From July 1, 2005, through June 30, 2025, the state treasurer shall quarterly transfer to the big sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall monthly transfer from the big sky economic development fund to the economic development special revenue account, provided for in 90-1-205, the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-1-204. Earnings not transferred to the economic development special revenue account must be retained in the big sky economic development fund.

(5) Any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund."

{*Internal References to 17-5-703:*
17-6-305 90-1-201 90-1-205 90-6-701
90-6-701 90-6-710 all ok/ddb}"

Renumber: subsequent sections

6. Page 12, line 3 through page 14, line 18.
Strike: section 3 in its entirety
Insert: "**Section 4.** Section 19-3-316, MCA, is amended to read:

"**19-3-316. Employer contribution rates.** (1) Each employer shall contribute to the system. Except as provided in subsection (2), the employer shall pay as employer contributions 6.9% of the compensation paid to all of the employer's employees plus any additional contribution under subsection (3), except for those employees properly excluded from membership. Of employer contributions made under this subsection for both defined benefit plan and defined contribution plan members, a portion must be allocated for educational programs as provided in 19-3-112. Employer contributions for members under the defined contribution plan must be allocated as provided in 19-3-2117.

(2) Local government and school district employer contributions must be the total employer contribution rate provided in subsection (1) minus the state contribution rates under 19-3-319.

(3) (a) Subject to subsection (4), each employer shall contribute to the system an additional employer contribution equal to ~~0.27%~~ the percentage specified in subsection (3)(b) of the compensation paid to all of the employer's employees, except for those employees properly excluded from membership.

(b) The percentage of compensation to be contributed under subsection (3)(a) is 1.27% for fiscal year 2014 and increases by 0.1% each fiscal year through fiscal year 2024. For fiscal years beginning after June 30, 2024, the percentage of compensation to be contributed under subsection (3)(a) is 2.27%.

(4) (a) The board shall ~~periodically~~ annually review the additional employer contribution provided for under subsection (3) and recommend adjustments to the legislature as needed to maintain the amortization schedule set by the board for payment of the system's unfunded liabilities.

(b) The employer contribution required under subsection (3) terminates on ~~July 1~~ January 1 following the board's receipt of the system's actuarial valuation if~~:~~

~~(i)~~ the actuarial valuation determines that ~~the period required to amortize the system's unfunded liabilities, including adjustments made for any benefit enhancements enacted by the legislature after the valuation, is less than 25 years; and~~

~~(ii)~~ terminating the additional employer contribution pursuant to this subsection (4)(b) and reducing the employee contribution pursuant to 19-3-315(2) would not cause the amortization period ~~as of the most recent actuarial valuation~~ to exceed 25 years."

{Internal References to 19-3-316:

19-3-108	*19-3-112*	*19-3-319*	*19-3-511*
19-3-2117	*19-3-2117*	*19-21-214*	*19-21-214*
20-9-501	*all ok/ddb}"*		

Renumber: subsequent sections

7. Page 15, line 5.
Strike: "(5)"
Insert: "(4)(b)"

8. Page 15, line 22 through page 16, line 12.
Strike: "(4)" on page 15, line 22 through "increased." on page 16, line 12
Insert: "(4) (a) Subject to subsection (5), the applicable percentage rate is 1.5% for benefit recipients hired or assuming office:

(i) before July 1, 2007;

(ii) on or after July 1, 2007, and prior to [the effective date of this act] if the benefit recipient is an existing member of a benefit plan for which the applicable percentage before [the effective date of this act] was either 3% or 1.5%; or

(iii) on or after [the effective date of this act].

(b) The applicable percentage rate for a contingent annuitant described in subsection (2)(c) is the same as the applicable percentage rate applicable to the original payee under subsection (4)(a).

(5) (a) Except as provided in subsection (5)(b), if the most recent actuarial valuation of the retirement system shows that retirement system liabilities are less than 90% funded, the applicable percentage rate in subsection (4) must be reduced by 0.1% for each 2% below that 90% funding level.

(b) If the amortization period is 40 years or greater, the applicable percentage rate is 0% and the retirement allowance may not be increased."

9. Page 16, line 13 through page 17, line 10.
Strike: section 5 in its entirety
Renumber: subsequent sections

10. Page 18, line 11 through line 13.
Strike: section 6 in its entirety
Insert: "**Section 6.** Section 19-3-2117, MCA, is amended to read:

"**19-3-2117. Allocation of contributions and forfeitures.** (1) The member contributions made under 19-3-315 and additional contributions paid by the member for the purchase of service must be allocated to the plan member's retirement account.

(2) Subject to subsection (3) and adjustment by the board as provided in 19-3-2121, of the employer contributions under 19-3-316 received:

(a) an amount equal to:

(i) 4.19% of compensation must be allocated to the member's retirement account;

(ii) 2.37% of compensation must be allocated to the defined benefit plan as the plan choice rate;

(iii) 0.04% of compensation must be allocated to the education fund as provided in 19-3-112(1)(b); and

(iv) 0.3% of compensation must be allocated to the long-term disability plan trust fund established pursuant to 19-3-2141; ~~and~~

(b) on July 1, 2009, continuing until the additional employer contributions terminate pursuant to ~~19-3-316~~ 19-3-316(4)(b), ~~0.27%~~ the percentage specified in subsection (3) of compensation must be allocated in the following order:

(i) to the defined benefit plan to eliminate the plan choice rate unfunded actuarial liability; and

(ii) to the long-term disability plan trust fund to provide disability benefits to eligible members; and

(c) on July 1, 2013, continuing until the additional employer contributions terminate pursuant to 19-3-316(4)(b), 1% of compensation must be allocated to the defined benefit plan unfunded liabilities.

(3) The percentage of compensation to be contributed under subsection (2)(b) is 0.27% for fiscal year 2014 and increases by 0.1% each fiscal year through fiscal year 2024. For fiscal years beginning after June 30, 2024, the percentage of compensation to be contributed under subsection (2)(b) is 1.27%.

~~(3)~~(4) Forfeitures of employer contributions and investment income on the employer contributions may not be used to increase a member's retirement account. The board shall allocate the forfeitures under 19-3-2116 to meet the plan's administrative expenses, including startup expenses."

{Internal References to 19-3-2117:

19-2-303	*19-2-405*	*19-2-715*	*19-3-315*
19-3-316	*19-3-2114*	*19-3-2114*	*19-3-2114*

19-3-2116 19-3-2121 19-3-2121 19-3-2121
19-3-2121 19-3-2121 19-3-2121 19-3-2121
19-3-2121 19-3-2121 19-3-2121 19-3-2121
19-3-2126 19-3-2126 all ok/ddb}"

Insert: "NEW SECTION. **Section 7. Board report required.** As soon as possible after the completion of each annual actuarial valuation for the public employees' retirement system, the board shall have its actuary present a detailed actuarial report to the legislative finance committee, provided for in 5-12-201, and the state administration and veterans' affairs interim committee, provided for in 5-5-228. The actuarial report must provide a trend analysis of the system's progress toward 100% funding."

Insert: "**Section 8.** Section 6, Chapter 495, Laws of 1999, is amended to read:

"**Section 6. Termination.** [This act] terminates June 30, ~~2013~~ 2016.""

Insert: "**Section 9.** Section 15, Chapter 389, Laws of 2011, is amended to read:

"**Section 15.** Section 6, Chapter 495, Laws of 1999, is amended to read:

"**Section 6. Termination.** [This act] terminates June 30, ~~2013~~ ~~2020~~ 2016."""

Insert: "**Section 10.** Section 16, Chapter 389, Laws of 2011, is amended to read:

"**Section 16.** Section 1, Chapter 70, Laws of 2001, is amended to read:

"**Section 1.** Section 6, Chapter 495, Laws of 1999, is amended to read:

"**Section 6. Termination.** ~~[This act]~~ [This act] ~~terminates~~ terminates June 30, ~~2013~~ ~~2016~~ ~~2020~~ 2016.""""

Insert: "NEW SECTION. **Section 11. Appropriations.** (1) For the fiscal year beginning July 1, 2013, there is appropriated for the purpose of making the additional employer contributions in 19-3-316:

(a) to the office of budget and program planning, the following amounts from the indicated fund:

(i) $1,870,019 from the general fund;

(ii) $1,688,905 from the state special revenue fund;

(iii) $1,149,658 from the federal special revenue fund; and

(iv) $669,831 from other funds;

(b) to the Montana university system from the general fund, $548,527; and

(c) to the office of public instruction for school BASE aid, $377,500 from the general fund.

(2) For the fiscal year beginning July 1, 2014, there is appropriated for the purpose of making the additional employer contributions in 19-3-316:

(a) to the office of budget and program planning, the following amounts from the indicated fund:

(i) $2,057,021 from the general fund;

(ii) $1,857,796 from the state special revenue fund;

(iii) $1,264,624 from the federal special revenue fund; and
(iv) $736,814 from other funds;
(b) to the Montana university system from the general fund, $603,380; and
(c) to the office of public instruction for school BASE aid, $431,750 from the general fund."

Insert: "NEW SECTION. **Section 12. {standard} Codification instruction.** [Section 7] is intended to be codified as an integral part of Title 19, chapter 3, part 1, and the provisions of Title 19, chapter 3, part 1, apply to [section 7]."

Renumber: subsequent sections

- END -

least they contained a trigger that allowed the GABA to be returned to 3% when certain actuarial factors came to be.

The Association did not actively lobby against House Bill 454 as it came out of the Select Committee, but we did inform legislators that the bill, as then constituted, violated the contract rights of employees and the constitutional protections provided them. As you know, the bill passed the House of Representatives and was sent to the Senate, whereupon it was placed in the Finance and Claims Committee. House Bill 454 was then further amended by Senator Jon Sesso, which made a bad bill worse. It is our understanding that your office was actively involved in those amendments that further trampled on the rights of retirees.

While we knew we were not supportive of the amendments sponsored by Senator Sesso, we were initially not fully aware of their impact. It wasn't until the bill passed the Senate and was placed on Second Reading in the House that a fiscal note was prepared that fully explained the true impact of House Bill 454. House Bill 454, as voted on by the House, permanently reduced the GABA to 1.5%, but contains a provision that further reduces the GABA to 0.9% in 2014. Even worse, it contains no trigger for the GABA to be increased back to the 1.5% or to 3%. While the Bill impliedly provides that the GABA can return to 1.5%, there is no specific mechanism that provides for such increase. As a result, it well could be that the GABA is permanently fixed at 0.9%. Moreover, we were shocked to find out that the 1% contribution by the employees and the employers would only last 6 months, and would be eliminated January 1, 2014. House Bill 454 is a breach of the retirees' contracts and is an insult to all former and existing public employees.

The Association feels betrayed by your office and is adamantly opposed to House Bill 454 at this time. House Bill 454 could have been modified in a way that would be much more palatable to the Association and its members, and all retirees, without inflicting the harm that it has. Again, the Association was *not* consulted on any of the amendments that Senator Sesso placed on the bill, and which you supported. The end result is that the employees and employers pay virtually nothing to solve the problem and the retirees bear almost the entire burden. That is not fair, rational or legal.

We understand that the bill is your bill, and that it would be highly unusual for you to veto it at this point, but that is what we're asking. House Bill 454 tramples on the statutory and constitutional rights of retirees and has the potential to inflict severe harm to current and future retirees.

Sincerely,

Russell E. Wrigg

Russell E. Wrigg, President
Association of Montana Retired Public Employees

OFFICE OF THE GOVERNOR
STATE OF MONTANA

STEVE BULLOCK
GOVERNOR

JOHN WALSH
LT. GOVERNOR

May 14, 2013

Russell E. Wrigg
Association of Montana Retired Public Employees
PO Box 4721
Helena, MT 59604

Dear Mr. Wrigg:

Thanks for writing to me to share your thoughts on HB 454, which provides funding for the Public Employee Retirement System (PERS).

As you know, one of my first acts as Governor was to propose legislation to fix our public pension funding shortfalls without increasing taxes or shortchanging retirees. The Legislature amended the version of the bill I submitted to include adjustments to the Guaranteed Annual Benefit Adjustment, or GABA. I opposed the amendment that seeks to adjust the GABA. I understand that both current employees and retirees are considering legal challenges to address the amendments, and I fully support that action. You can be certain that I remain committed to supporting Montana's public employees, and committed to supporting this challenge.

It's important to keep in mind that this likely unconstitutional amendment doesn't change one important fact: by implementing the remainder of my pension fix plan, Montana is the first state in the nation to fix our pension system without raising taxes. Failure to act now would pose an even greater risk to current and future retirees.

Thanks again for reaching out to my office. And thank you for your service to our state. It is essential for me to hear from you as I work hard on behalf of all Montanans. Please don't hesitate to contact me again with further questions or concerns.

Keep in touch.

Sincerely,

STEVE BULLOCK
Governor

EXHIBIT
13

CHEIRON CLASSIC VALUES, INNOVATIVE ADVICE

Montana Public Employees' Retirement Board

Actuarial Valuations as of June 30, 2013

Presented By
Stephen McElhaney, FSA, FCA
Margaret Tempkin, FSA
October 10, 2013

EXHIBIT 14

Discussion Topics

- Public Pension Environment
- The Actuarial Valuation Process
- Historical Trends (PERS)
- Review of Actuarial Experience
- 2013 Actuarial Valuations, Projections, and Stress Testing

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Public Pension Environment

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Public Pension Environment

- Budget Problems for Governmental Employers (Detroit bankruptcy)
- More Public Scrutiny and Questions Being Raised about Plan Sustainability (Society of Actuaries “Blue Ribbon Panel”)
- Pending Changes in Accounting and Actuarial Standards
- Proposed Federal Legislation (PEPTA and Orrin Hatch legislation)

The Actuarial Valuation Process

The Actuarial Valuation Process In General

1. Collect data
   - Participants
   - Plan provisions
   - Financial

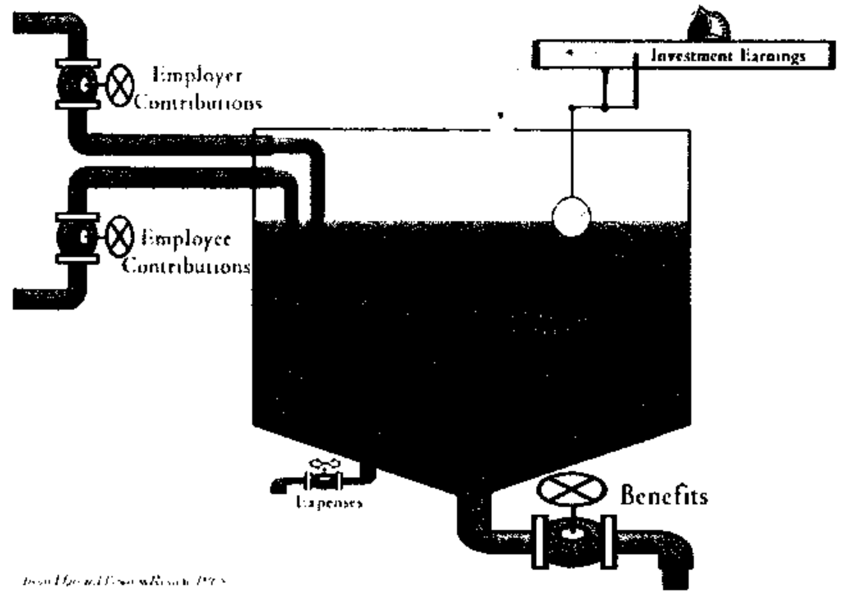
2. Make assumptions
   - Demographic
   - Economic

3. Project all future benefit payments

4. Determine a present value = tank

5. Compare to assets

6. Calculate employer contribution



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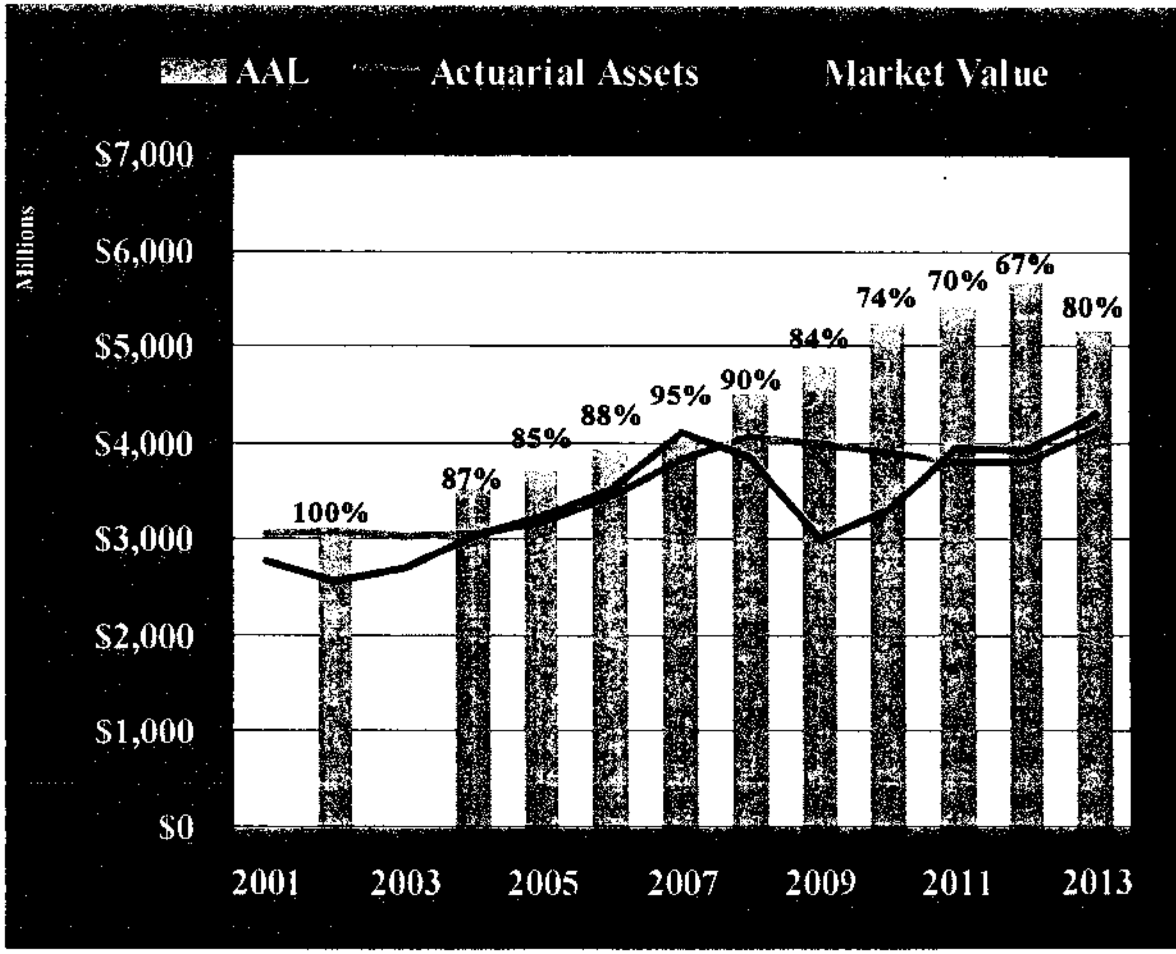
Historical Trends (PERS)

PERS Historical Trends
Assets and Liabilities



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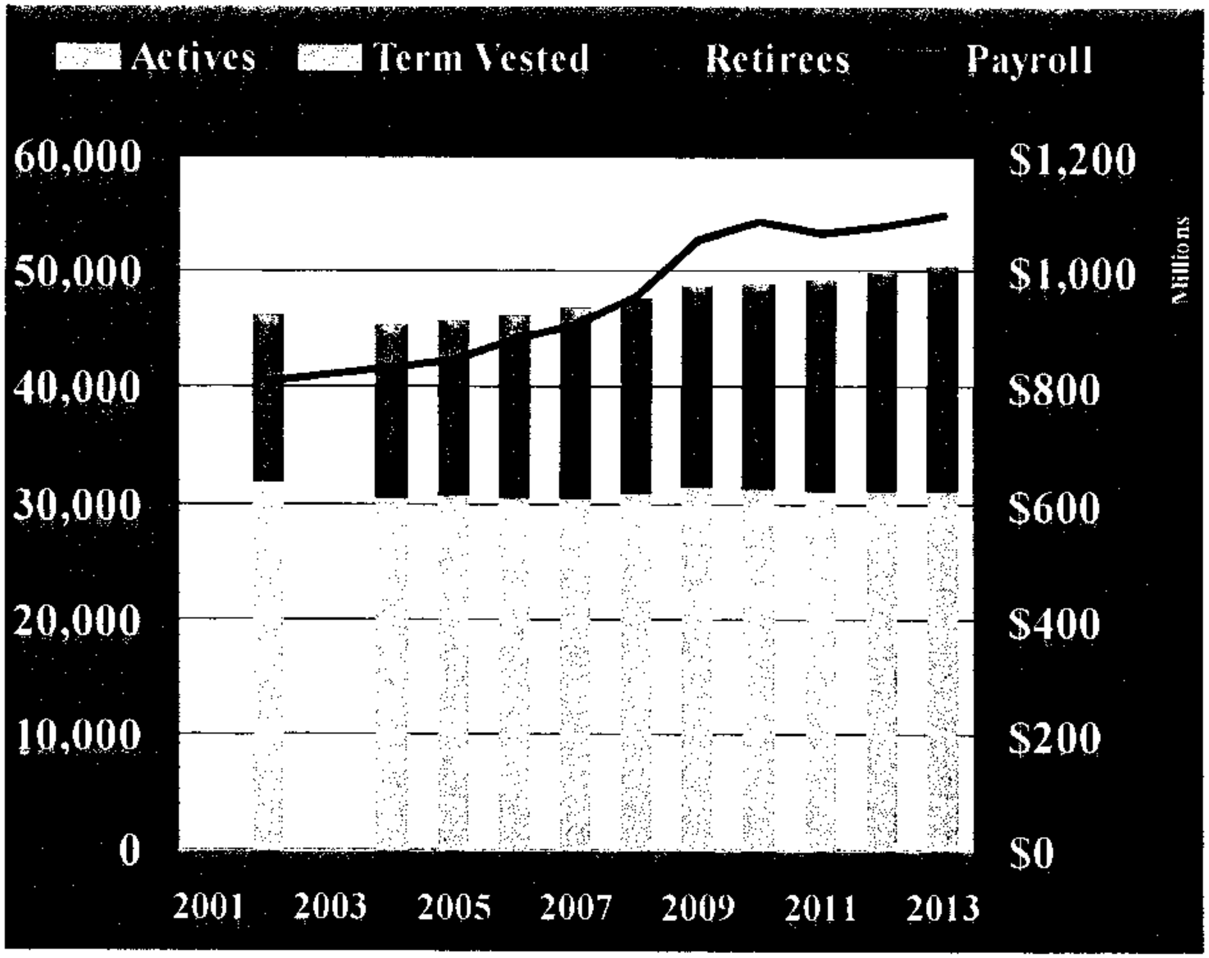
PERS Historical Trends
Participation



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Review of Actuarial Experience

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Plan Changes - PERS

- HB 454
  - Member contributions increased to 7.9%
    - Reduced to 6.9% when amortization period drops below 25 years and remains below 25 years following reduction
  - Employer contributions increased by 1%
    - Increase by additional 0.1% each succeeding year until reaching total increase of 2%
    - All additional contributions including the 0.27% added in 2007 and 2009 cease when amortization period drops below 25 years and remains below 25 years following reduction
  - Other contributions to PERS-DB fund
    - Coal tax
    - DCRP and ORP contributions
    - Additional Plan Choice Rate contributions
  - GABA reduced to 1.5% for all retirees
    - Further reduced 0.1% for each 2% that funded ratio is less than 90%
    - GABA is zero if amortization period exceeds 40 years

Plan Changes - HPORS

- HB 336
  - Employer contribution rate from 36.33% to 38.33% of pay
  - Member contribution rate increases 1% per year for four years
  - Benefit multiplier increased from 2.5% to 2.6%
  - For members hired after July 1, 2013
    - GABA reduced from 3.0% to 1.5%
    - GABA waiting period increased from one year to three years
    - Vesting period increased from 5 years to 10 years

Other Plan Changes

- Cap on compensation increases considered part of member's highest or final compensation (new members after July 1, 2013)
- Bonuses not included after July 1, 2013
- Some changes with respect to working retirees
- No impact on valuation results

Review of Actuarial Experience

- Investment experience
  - Return on market value was 12% to 13% for all systems
  - Due to smoothing gains (2011 & 2013) and losses (2012), return on actuarial value was from about 11% to 12% for all systems, creating actuarial experience gains
- Liability experience
  - Liability loss in JRS due to retirements
  - Liability gain in GWPORS & HPORS due to salary
  - Liability loss in VFCA due to service adjustments and retroactive payouts
  - Other gains and losses were generally small as percent of liabilities

2013 Actuarial Valuations, Projections, and Stress Testing

PERS Summary of Valuation Results

Valuation as of:	June 30, 2012	June 30, 2013	% Change
Participant Counts			
Active Members	28,548	28,401	-0.5%
Disabled Members	200	185	-7.5%
Retirees and Beneficiaries	18,538	19,266	3.9%
Terminated Vested Members	2,560	2,686	4.9%
Terminated Non-Vested Members	6,164	6,712	8.9%
Total	56,010	57,250	2.2%
Annual Salaries of Active Members	1,078,710,468	1,098,340,791	1.8%
Average Annual Salary	37,786	38,673	2.3%
Annual Retirement Allowances for Retired Members and Beneficiaries	258,468,971	281,465,581	8.9%

PERS Summary of Valuation Results

	June 30, 2012	Before Plan Changes June 30, 2013	After Plan Changes June 30, 2013	Prior GABA New Contributions June 30, 2013
Assets and Liabilities (000's)				
Actuarial Accrued Liability (AAL)	5,661,282	5,916,199	5,160,951	5,902,663
Actuarial Value of Assets (AVA)	3,816,920	4,139,921	4,139,921	4,139,921
Unfunded AAL (AVA/AAL)	1,844,362	1,776,278	1,021,030	1,762,742
Less: PCR-UAL	11,053	8,749	8,749	8,749
Net Unfunded AAL	1,833,309	1,767,529	1,012,281	1,753,993
Funded Ratio	67%	70%	80%	70%
Market Value of Assets (MVA)	3,921,812	4,299,238	4,299,238	4,299,238
Ratio of Actuarial Value to Market Value	97%	96%	96%	96%

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PERS Summary of Valuation Results

	June 30, 2012	Before Plan Changes June 30, 2013	After Plan Changes June 30, 2013	Prior GABA New Contributions June 30, 2013
Contributions as a Percentage of Payroll				
Statutory Funding Rates				
Average Member Contribution Rate	7.01%	7.10%	7.90%	7.90%
Employer Contribution Rate	7.07%	7.07%	8.07%	8.07%
State Contribution Rate	0.10%	0.10%	0.10%	0.10%
Coal Tax as Percen of Comp.			2.61%	2.61%
DC/ORP Percent of Comp.			0.10%	0.10%
Total Statutory Funding Rate	14.18%	14.27%	18.78%	18.78%
Less: Transfer to DB Ed Fund	0.04%	0.04%	0.04%	0.04%
Net Statutory Funding Rate	14.14%	14.23%	18.74%	18.74%
Normal Cost Rate	11.80%	11.61%	10.90%	11.82%
Available for Amortization of UAL	2.34%	2.62%	7.84%	6.92%
Period to Amortize	Does not amortize	Does not amortize	14.5	43.7
Projected 30-year Level Funding Rate	20.71%	20.04%	15.75%	20.19%
Projected Shortfall (Surplus)	6.53%	5.77%	-3.03%	1.41%

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PERS HB 454 Calculations

	June 30, 2013
Assets and Liabilities (000's)	
Actuarial Accrued Liability	5,206,182
Actuarial Value of Assets	4,139,921
Unfunded AAL	1,066,261
Funded Ratio	80%
Determination of amortization periods	
Net Statutory Funding Rate	18.74%
Normal Cost Rate	11.02%
Available for Amortization of UAL	7.72%
Period to Amortize (years)	15.6
Net Statutory Funding Rate w/o temporary contributions	16.37%
Normal Cost Rate	11.02%
Available for Amortization of UAL	5.35%
Period to Amortize (years)	26.8
GABA Determination next January 1	
Funding ratio to neaest whole percentage	80%
GABA based on funded ratio	1.0%
Is amortization period over 40 years?	No
Final GABA	1.0%

All calculations above assume all future GABAs at rate of 1.5% and no change in member contribution rate of 7.9%

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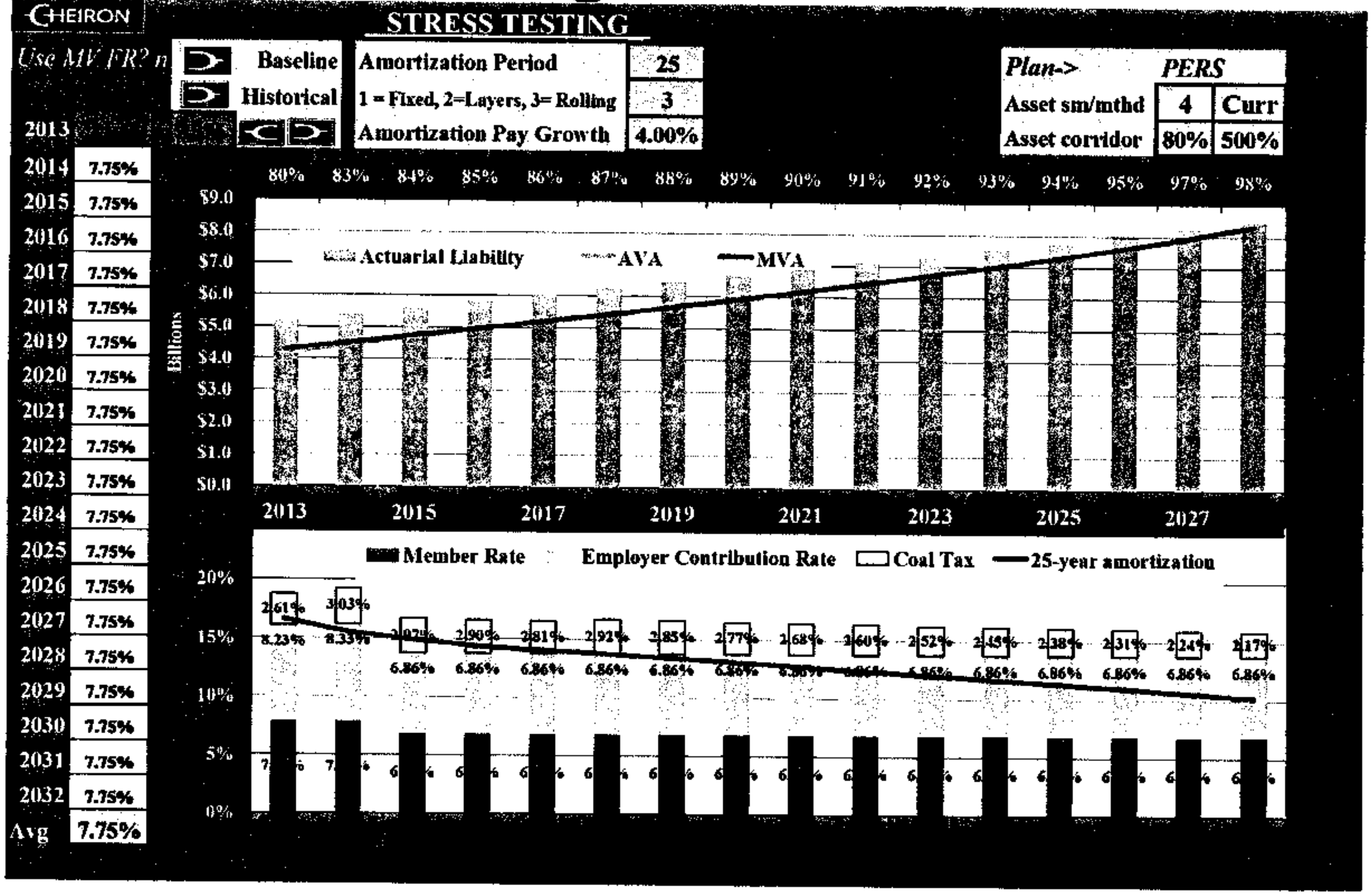
New Assumptions - PERS

- Future GABA Increases
  - Disclosure purposes:
    - January 1, 2014: 1.0%
    - January 1, 2015: 1.2%
    - January 1, 2016: 1.2%
    - January 1, 2017: 1.3%
    - January 1, 2018: 1.3%
    - January 1, 2019: 1.4%
    - January 1, 2020: 1.4%
    - January 1, 2021 and later: 1.5%
  - HB454 calculation: 1.5% for all future years
- Future Member Contribution Rates
  - Disclosure purposes: 7.9% reduce January 1, 2015 to 6.9%
  - HB454 calculation: 7.9% for all future years

Stress Testing the Future - PERS



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Valuation Results – Other Plans

	Funded Ratio		Amortization Period	
	2012	2013	2012	2013
JRS	137%	143%	0.0	0.0
HPORS (prior plan)	58%	61%	49.7	52.8
HPORS (new plan)		60%		44.6
SRS	74%	77%	Does not amortize	Does not amortize
GWPORS	76%	80%	Does not amortize	Does not amortize
MPORS	55%	58%	25.7	23.8
FURS	62%	66%	16.4	13.9
VFCA	73%	75%	9.3	8.5

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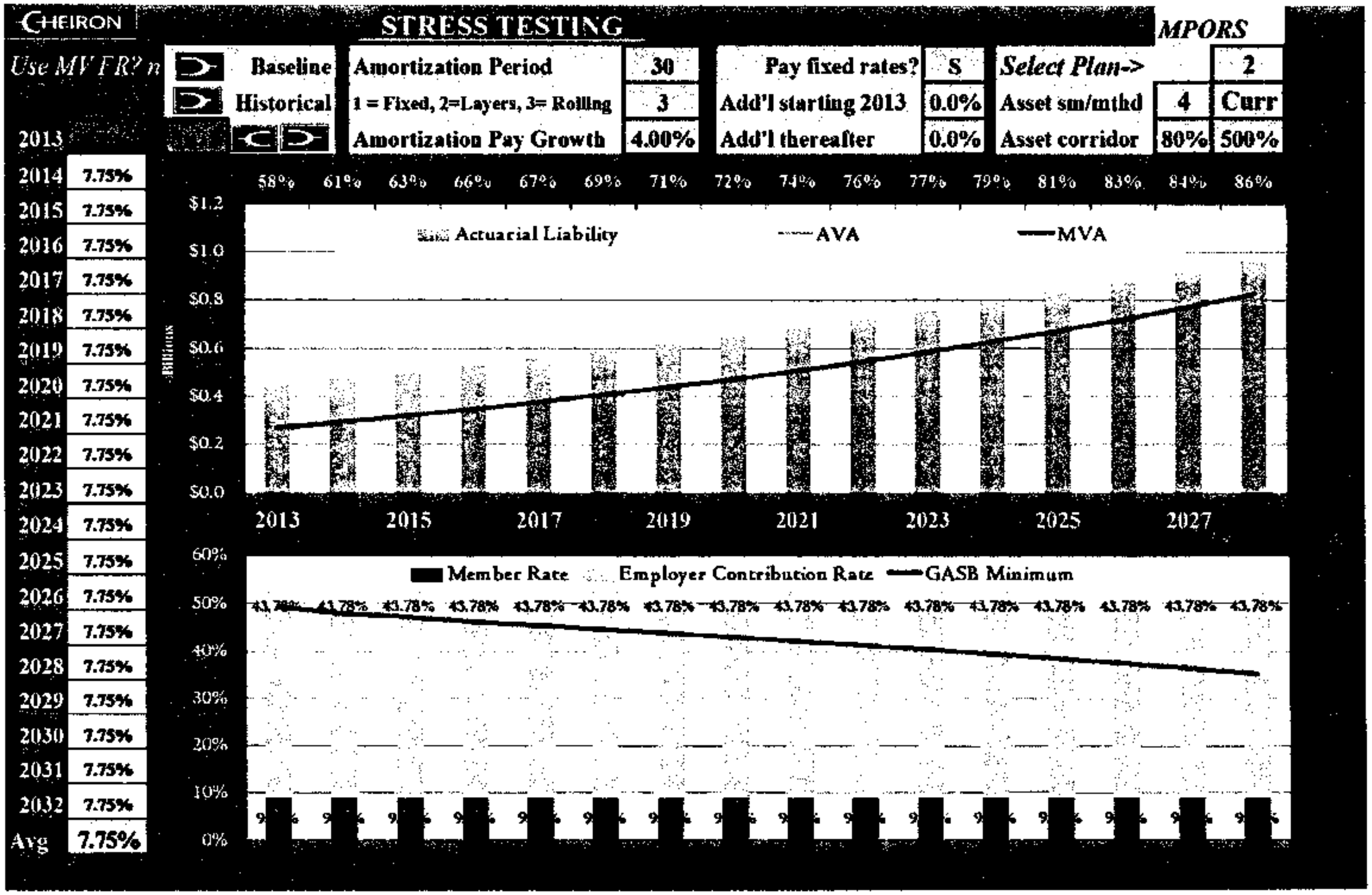
Stress Testing the Future
Other Plans



CHEIRON

Required Disclosures

- The purpose of this presentation is to present the annual actuarial valuation of the Montana Public Employee Retirement Administration. This presentation is for the use of the Montana Public Employees' Retirement Board and its auditors in preparing financial reports in accordance with applicable law and accounting requirements.

- In preparing our presentation, we relied on information (some oral and some written) supplied by the Montana Public Employee Retirement Administration. This information includes, but is not limited to, the plan provisions, employee data, and financial information. We performed an informal examination of the obvious characteristics of the data for reasonableness and consistency in accordance with Actuarial Standard of Practice #23.

- We hereby certify that, to the best of our knowledge, this presentation and its contents have been prepared in accordance with generally recognized and accepted actuarial principles and practices which are consistent with the Code of Professional Conduct and applicable Actuarial Standards of Practice set out by the Actuarial Standards Board. Furthermore, as credentialed actuaries, we meet the Qualification Standards of the American Academy of Actuaries to render the opinion contained in this presentation. This presentation does not address any contractual or legal issues. We are not attorneys and our firm does not provide any legal services or advice.

- This presentation was prepared exclusively for the Montana Public Employees' Retirement Board for a for the purpose described herein. This presentation is not intended to benefit any third party, and Cheiron assumes no duty or liability to any such party.

- The actuarial assumptions, data and methods are those used in the preparation of the latest actuarial valuation report prepared for these plans as of June 30, 2012, with exception of those changes due to HB 336 and HB 454.

- The assumptions reflect our understanding of the likely future experience of the Plans and the assumptions as a whole represent our best estimate for the future experience of the Plans. The results of this presentation are dependent upon future experience conforming to these assumptions. To the extent that future experience deviates from the actuarial assumptions, the true cost of the plan could vary from our results.

Stephen McElhaney, FSA, FCA
Principal Consulting Actuary

Margaret Tempkin, FSA
Principal Consulting Actuary

CHEIRON

AFFIDAVIT OF
TERRY W. JOHNSON

STATE OF MONTANA)
: ss.
County of Lewis & Clark)

The undersigned, under oath, does hereby swear or affirm:

1. My name is Terry W. Johnson. I reside in Helena, Montana.

2. I currently work as a consultant to a number of entities for varying projects.

3. Earlier in my career, I was employed with the State of Montana. I worked for the State for over 39 years in several positions. I worked in the Governor's Budget Office from 1976 to 1990. At the time I retired from the State in November, 2012 I was working as a principal fiscal analyst and had held that position for 22 years.

4. My duties as a principal fiscal analyst included tracking and projecting State revenues and expenditures, general ledger accounts such as cash balances, fund balances, reserves, numerous assets and liabilities, and available surpluses. These duties were applicable to numerous state funds including state, federal, proprietary, and trust accounts.

5. As a principal fiscal analyst my duties required me to have an intimate knowledge and understanding of the State's accounting system, the Statewide Accounting, Budgeting, & Human Resource System (SABHRS). This system is the state's accounting software that records and maintains all financial transactions for state government entities.

6. I prepared the attached Exhibit A entitled General Fund Balance by Fiscal Year and Exhibit B entitled State Trust Fund Balances for Fiscal 2012 & 2013 from analyzing raw data from SABRHRS. This data is true and correct to the best of my knowledge.

7. Exhibit A shows the fiscal year General Fund Balance for 2013 as of June 30, 2013.

8. The Ending General Fund Balance is a number arrived at when all of the State liabilities have been subtracted from all the State assets. The State is statutorily required to

EXHIBIT
15

retain at least 1% of all general fund appropriations for the biennium as an ending fund balance. State statute requires the chief budget officer (Governor) to propose spending reductions in the event the balance is projected to fall below this amount.

9. If you subtract the percentage required to be retained in an ending fund balance, for fiscal year 2013 (approximately $38.0 million), from the general fund balance of $542.6 million, the State has a surplus of about $504 million.

Further Affiant Sayeth Not.

DATED this 30th day of October, 2013.

By Terry W. Johnson
Terry W. Johnson

On this 30th day of October 2013, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared Terry W. Johnson known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same.

In witness whereof, I have hereunto set my hand and affixed my notarial seal on the day and year first above written.

(Notarial Seal)

AMBER G. CARLSON
NOTARIAL SEAL
STATE OF MONTANA
AMBER G. CARLSON
NOTARY PUBLIC for the State of Montana
Residing at Helena, Montana
My Commission Expires August 26, 2016

Amber G. Carlson
NOTARY PUBLIC FOR THE STATE OF MONTANA
Printed Name: ____________________
Residing at: ____________________
My Commission Expires ____________________

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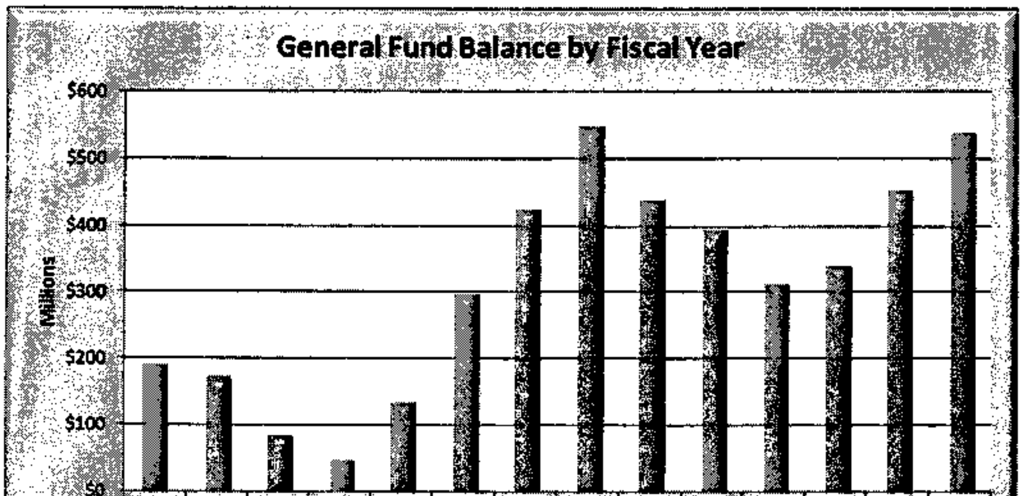

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
M $'s	193.0	174.5	86.8	48.9	137.9	300.2	427.0	548.9	441.5	396.3	314.9	343.8	457.1	542.6

EXHIBIT
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State Trust Fund Balances for Fiscal 2012 & 2013
Order Based on Fiscal 2013 Balance

Trust Account	Fund Balance FY 2012	Fund Balance FY 2013
09020 Common School Permanent Trust	524,149,579.89	543,048,582.20
09001 Coal Severance Tax Perm. Fund	527,903,651.92	527,903,650.92
09040 Treasure State Endowment	210,093,880.77	224,939,648.39
09048 Montana Tobacco Settlement	147,225,228.79	159,955,522.21
09003 Resource Indemnity Tax Trust	100,023,108.68	100,023,108.68
09046 TSE - Regional Water System	64,214,692.44	71,637,576.25
09051 Big Sky Economic Dev. Fund	60,422,774.43	67,845,658.24
09041 Coal Severance Tax Income Fnd	37,278,638.65	27,492,668.89
09044 TSEF Income Fund	32,468,704.90	26,766,706.81
09004 Coal Tax-FWP Trust	23,701,591.54	23,869,061.57
09037 Cultural Trust	12,883,984.83	12,943,490.68
09005 Z/L Long Term H2O Trust Fund	11,667,815.43	12,847,282.85
09006 Real Property Trust-Wild. Hab.	10,944,902.89	11,047,201.36
09009 MSU Permanent Trust	9,850,942.82	10,886,528.39
09052 Big Sky Economic Dev. Inc.Fund	10,926,040.17	10,683,339.09
09043 RITT Income Fund	12,645,598.11	10,042,904.00
09034 Noxious Weed Mgmt Trust Fund	10,294,940.79	10,000,000.00
09042 Coal Severance Tax Bond Fund	8,886,800.19	7,763,378.09
09049 Tobacco Settlement Interest	11,084,502.28	6,988,548.66
09013 WESTERN/EASTERN PERM TRUST	6,857,882.87	6,775,945.98
09047 TSEF Region Water Income Fund	10,447,959.51	6,618,179.92
09002 Real Property Trust	6,198,340.41	6,458,216.74
09014 Montana Tech Permanent Trust	5,697,465.48	6,228,919.20
09011 Deaf & Blind Permanent Trust	4,594,206.24	4,968,927.53
09010 Morrill Permanent Trust	4,545,061.19	4,867,326.77
09012 Pine Hills School Perm Trust	4,151,431.81	4,166,698.54
09021 Public Land Trust-Navig Rivers	1,564,925.60	3,381,208.13
09016 UNIVERSITY OF MT PERM TRUST	1,687,734.36	1,640,836.89
09120 Common School Trust - LB	2,144,299.28	1,476,653.22
09045 Endowment For Children Donatns	1,289,944.11	1,287,165.57
09025 Older Montanans Trust Fund	1,011,263.02	1,029,018.79
09053 Noxious Weed Trust Income Fund	1,042,678.69	788,424.70
09107 Capitol Bldg Trust - LB	489,000.78	675,375.77
09026 James H. Bradley Memorial Fund	484,956.99	483,430.05
09028 Thomas Teakle Trust Fund	445,433.80	419,644.91
09113 WESTERN/EASTERN TRUST-LB	264,000.99	299,358.24
09116 University of MT Trust - LB	489,010.72	271,212.18
09112 Pine Hills School Trust - LB	167,297.01	167,266.68
09017 Acquisitions Trust	117,498.64	115,167.68
09029 Merritt-Wheeler Memorial Fund	119,571.53	114,902.73
09008 Stewart Trust Fund	118,733.09	113,480.04
09030 Sobotka Memorial Trust	114,636.26	109,696.84
09109 MSU Trust - LB	300,000.00	82,389.82
09050 Sigerson Fellwshp/Exhibit Tour	75,886.57	76,078.53
09035 MHC PERSONAL PROPERTY TRUST	31,694.27	31,694.27
09110 Morrill Trust - LB	28,570.59	28,566.02
09114 Montana Tech Trust - LB	20,000.84	19,997.21
09015 Veterans Home Permanent Trust	18,919.25	18,366.05
09031 LANDS ACQ-PUB SCH PERMANENT	1,073.86	10,357.80
Total of All Trusts	**$1,881,186,857.28**	**$1,919,409,364.08**

Source: Statewide Accounting, Budgeting, & Human Resource System (SABHRS)

10/28/2013:10:03 AM

EXHIBIT B

MONTANA FIRST JUDICIAL DISTRICT COURT

LEWIS AND CLARK COUNTY

JUDY BYRNE, JANET KRANSKY, SUSAN NARDINGER, HAZEL JOHNSON, LORI BREMER, MEA-MFT,
Plaintiffs,
v.
STATE OF MONTANA, TEACHERS' RETIREMENT SYSTEM OF THE STATE OF MONTANA, TEACHERS BOARD,
Defendants.

CAUSE ADV-2013-738

DEPOSITION OF DAN VILLA

BE IT REMEMBERED, that the deposition upon oral examination of DAN VILLA, appearing at the instance of Plaintiffs, was heard at the Law Office of Hunt & McDonald, Helena, Montana, on the 8th day of July, 2014, beginning at the hour of 1:30 p.m., before Laurie Crutcher, Registered Professional Reporter, Notary Public.

* * * * *

EXHIBIT
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16

Page 10

MR. BLACK: Let's call it Exhibit 25.
(Whereupon, Deposition Exhibit No. 25 was marked for identification)
Q. (BY MR. ENGLUND) So then Governor Bullock comes into office, correct?
A. **Correct.**
Q. And did he sign on to what was Governor Schweitzer's proposal? Is that the way to put it? How do you put that?
A. **Governor Bullock adopted Governor Schweitzer's proposed budget provision that then became House Bill 377.**
Q. And House Bill 377 was introduced at the request of the Office of Budget and Planning?
A. **Yes, my office, the Office of Budget and Program Planning was the requesting agency.**
Q. House Bill 377 as introduced did not contain a change in the Guaranteed Annual Benefit Adjustment; is that correct?
A. **Correct.**
Q. And is that for, from what you understood, the same reason as Governor Schweitzer did not include it in his proposal?
A. **Correct.**
Q. Not necessary?

Page 11

A. **It was not financially necessary.**
Q. A change in the Guaranteed Annual Benefit Adjustment was added during the course of the legislative action on House Bill 377. My question on that is: Was that change made at the urging of the Governor's Office?
A. **No.**
Q. I want to switch topics now to the financial condition of the State of Montana.
A. **Okay.**
Q. And a lot of my questions have to do with something that's called the ending General Fund balance. Would you define that phrase for me?
A. **The ending fund balance of the General Fund is the unencumbered balance after fiscal year end of each state fiscal year. I think that would be the easiest way to summarize it.**
Q. By unencumbered, what do you mean?
A. **That the cash available and the appropriations available have not in some other way been encumbered by a State agency, State agency or the Legislature.**
Q. What was the ending General Fund balance for Fiscal Year 2013, if you know?

Page 12

A. **The certified ending fund balance, unaudited General Fund balance at June 30, 2013 was $560,813,646.30.**
MR. BLACK: Just so we have a complete record, you're reading from a document. Why don't we mark that, identify that as an exhibit, unless there is an objection from Counsel.
(Whereupon, Deposition Exhibit No. 27 was marked for identification)
Q. (BY MR. ENGLUND) The document you were looking at has been identified as Exhibit 27. Can you tell me what the document is?
A. **The document is from the State Accountant Julie Feldman to myself, the Director of the Department of Administration, the Assistant Budget Director, the State Accounting Division Administrator, Legislative Fiscal Analyst and one of her staff, which indicates the unaudited General Fund balance, unaudited ending fund balance you could read at the end of Fiscal Year 2013.**
Q. And is there any significance to the fact that it is unaudited?
A. **No, because the audit is what concurs with the -- or what reviews the balance itself.**

Page 13

It is very rare that the audit would identify a change in the cash position.
Q. Can I see it?
A. **(Provides document)**
Q. Just so we're clear, what's the initials S-A-B-H-R-S?
A. **SABHRS is the State Accounting Budgeting and Human Resource System, and that is the State's accounting software.**
Q. In another case filed concerning the Legislature and the retirement system, the case involving the PERS case -- which we're not involved with -- but there was an affidavit in that case filed by Terry Johnson that talks about the State being statutorily required to retain at least one percent of its General Fund appropriations for the biennium as an ending fund balance. Can you explain that to me, please?
A. **17-7-140 MCA outlines the provisions by which an ending fund balance would be sufficiently low to require the Governor to -- what we commonly refer to as trigger, and that is to reduce General Fund expenditures as an administration in order to maintain and meet the constitutional requirements of having a balanced budget.**

2013 POVERTY GUIDELINES

ALL STATES (EXCEPT ALASKA AND HAWAII) AND D.C.

ANNUAL GUIDELINES

FAMILY SIZE	PERCENT OF POVERTY GUIDELINE								
	100%	120%	133%	135%	150%	175%	185%	200%	250%
1	11,490.00	13,788.00	15,281.70	15,511.50	17,235.00	20,107.50	21,256.50	22,980.00	28,725.00
2	15,510.00	18,612.00	20,628.30	20,938.50	23,265.00	27,142.50	28,693.50	31,020.00	38,775.00
3	19,530.00	23,436.00	25,974.90	26,365.50	29,295.00	34,177.50	36,130.50	39,060.00	48,825.00
4	23,550.00	28,260.00	31,321.50	31,792.50	35,325.00	41,212.50	43,567.50	47,100.00	58,875.00
5	27,570.00	33,084.00	36,668.10	37,219.50	41,355.00	48,247.50	51,004.50	55,140.00	68,925.00
6	31,590.00	37,908.00	42,014.70	42,646.50	47,385.00	55,282.50	58,441.50	63,180.00	78,975.00
7	35,610.00	42,732.00	47,361.30	48,073.50	53,415.00	62,317.50	65,878.50	71,220.00	89,025.00
8	39,630.00	47,556.00	52,707.90	53,500.50	59,445.00	69,352.50	73,315.50	79,260.00	99,075.00

For family units of more than 8 members, add $4,020 for each additional member.

MONTHLY GUIDELINES

FAMILY SIZE	PERCENT OF POVERTY GUIDELINE								
	100%	120%	133%	135%	150%	175%	185%	200%	250%
1	957.50	1,149.00	1,273.48	1,292.63	1,436.25	1,675.63	1,771.38	1,915.00	2,393.75
2	1,292.50	1,551.00	1,719.03	1,744.88	1,938.75	2,261.88	2,391.13	2,585.00	3,231.25
3	1,627.50	1,953.00	2,164.58	2,197.13	2,441.25	2,848.13	3,010.88	3,255.00	4,068.75
4	1,962.50	2,355.00	2,610.13	2,649.38	2,943.75	3,434.38	3,630.63	3,925.00	4,906.25
5	2,297.50	2,757.00	3,055.68	3,101.63	3,446.25	4,020.63	4,250.38	4,595.00	5,743.75
6	2,632.50	3,159.00	3,501.23	3,553.88	3,948.75	4,606.88	4,870.13	5,265.00	6,581.25
7	2,967.50	3,561.00	3,946.78	4,006.13	4,451.25	5,193.13	5,489.88	5,935.00	7,418.75
8	3,302.50	3,963.00	4,392.33	4,458.38	4,953.75	5,779.38	6,109.63	6,605.00	8,256.25

Produced by: CMCS/CAHPG/DEEO

tabbies

EXHIBIT

17

AFFIDAVIT OF
CAROLE CAREY

STATE OF Mont)

: ss.

County of Carter)

The undersigned, Carole Carey, under oath, does hereby swear or affirm:

1. My name is Carole Carey, and I reside in Ekalaka, Montana.

2. I am currently a retired member of the Public Employee Retirement System (PERS).

3. In May 1971 I began work as the Carter County Deputy Clerk of District Court, a position that I held for approximately 13.5 years. I was then elected as the Clerk of District Court, also in Carter County, and I retained that position for the next 23 years.

4. During my nearly 37 years of service with Carter County, I was a member of and paid into PERS.

5. During the time I worked at the District Court, I also served on the Public Employee Retirement Board (PERB). I was appointed to this position in 1992 and served on the PERB until 2007. In my time serving on the PERB, I had the opportunity to learn a great deal about the State's public retirement systems.

6. I was a PERB board member during the 1997 legislative session when HB 170 was passed enacting the Guaranteed Annual Benefit Adjustment (GABA), and was involved in the legislation.

7. The reason for PERB requesting the drafting and introduction of HB 170 was due in large part to those state and county employees who had retired in the early 1970s on a small monthly retirement that were struggling to get by. These retirees were unable to keep their homes, pay for their medication and other necessities and some were even on public assistance programs. In an effort to help these folks and help reduce the impact of inflation on the value of their retirement benefits, the PERB and others crafted and passed the GABA legislation.

EXHIBIT

tabbies

18

8. It was clear to me as a PERB board member that the GABA was intended to provide a post-retirement adjustment to retirement benefits similar to a cost of living adjustment that other states had enacted.

9. My husband suffered a very severe heart attack at age 50 and my job became the major source of our income from that point forward. Because we mainly relied on my income, I spent a great deal of time deciding when to retire, and I worked with the PERS staff in calculating if I could afford to retire.

10. It was because of the 3% GABA that I finally calculated that I could retire with an adequate retirement and so at age 65, I retired feeling that we would be able to make ends meet. I was always led to believe and believed that the GABA could not be taken away and I was guaranteed the GABA throughout my lifetime.

11. If it had not been for the GABA, I would not have retired in 2007 and probably would still be working today because of my experience and my fear of what inflation would do to me as a retiree, similar to those public employees who had retired in the early 1970s.

12. I am 70 years old now and going back to work is not an option for me. I rely on my PERS retirement benefits as my primary source of income, and it combined with Social Security is adequate to make ends meet. Without GABA, I seriously doubt that my PERS retirement benefit will be sufficient to live on in 10 years.

Further Affiant Sayeth Not.

DATED this 10th day of Oct, 2013.

By Carole Carey
Carole Carey

On this 10th day of October 2013, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared Carole Carey known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same.

In witness whereof, I have hereunto set my hand and affixed my notarial seal on the day and year first above written.

Lisa Jourdan
NOTARY PUBLIC FOR THE STATE OF MONTANA
Printed Name: Lisa Jourdan
Residing at: Ekalaka, Montana
My Commission Expires December 15, 2013

(Notarial Seal)

LISA JOURDAN
NOTARY PUBLIC for the
State of Montana
Residing at Ekalaka, Montana
My Commission Expires
December 15, 2013

LISA JOURDAN
NOTARIAL
SEAL
STATE OF MONTANA

TIMOTHY C. FOX
Montana Attorney General
MICHAEL G. BLACK
J. STUART SEGREST
Assistant Attorneys General
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401
mblack2@mt.gov
ssegrest@mt.gov
Phone: (406) 444-2026, Fax: (406) 444-3549

COUNSEL FOR DEFENDANTS

RECEIVED
JUN 16 2014
BROWNING, KALECZYC,
BERRY & HOVEN, PC

MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY

ASSOCIATION OF MONTANA RETIRED PUBLIC EMPLOYEES, RUSSELL WRIGG, MARLYS HURLBERT, CAROLE CAREY, I. EDWARD SONDENO, Plaintiffs, v. STATE OF MONTANA, MONTANA PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION, PUBLIC EMPLOYEE RETIREMENT BOARD, GOVERNOR STEVE BULLOCK, in his official capacity, Defendants.	Cause No. CDV-2013-788 **DEFENDANTS' RESPONSE TO PLAINTIFFS' FIRST SET OF DISCOVERY REQUESTS**

REQUEST FOR ADMISSION NO. 1: Please admit that HB 454 of the 2013 Legislative Session as originally introduced did not reduce the Guaranteed Annual Benefit Adjustment ("GABA").

RESPONSE: Admit.

EXHIBIT
19

As to paragraph 7 of the Affidavit, the State admits that Ms. Hurlbert's initial benefit adjustment was approximately $60 a month. The State denies that State health insurance premiums for retirees have increased by $50 to $60 per month. Instead the increases for a retiree only on the Choice/Capitol Plan are as follows:

2003	335	
2004	352	17
2005	412	60
2006	459	47
2007	508	49
2008	466	-42
2009	552	86
2010	624	72
2011	691	67
2012	691	0
2013	726	35
2014	734	8

As to paragraphs 8, 9 and 10 of the Affidavit, the State has no information regarding Ms. Hulbert's current financial or medical issues and therefore denies the same.

INTERROGATORY NO 2: Is it your contention that any of the statements and information in the Affidavit of Marlys Hurlbert, attached as Exhibit C, is not true, accurate and correct? If so, please identify specifically each statement or item of information that you contend is not true, accurate and correct and set forth all facts supporting your contention that the statement or information is not true, correct and accurate.

ANSWER: See response to Request for Admission No. 29.

REQUEST FOR ADMISSION NO. 30: Please admit that the information in the Affidavit of Carole Carey, attached as Exhibit D, is true, accurate, and correct.

RESPONSE: The State admits the facts set forth in paragraphs 1, 2, 4, 5, 6.

As to paragraph 3, the State admits Ms. Carey was a member of PERS for 36 years, but has insufficient information regarding her specific service for Carter County.

As to paragraph 7 of the Affidavit, the State objects to the request as calling for speculation and a legal conclusion.

With respect to paragraphs 8 to 12 of the Affidavit, the State has no knowledge of what was clear to Ms. Carey or the nature of her personal and financial status and decisions and therefore denies the same.

INTERROGATORY NO 3: Is it your contention that any of the statements and information in the Affidavit of Carole Carey, attached as Exhibit D, is not true, accurate and correct? If so, please identify specifically each statement or item of information that you contend is not true, accurate and correct and set forth all facts supporting your contention that the statement or information is not true, correct and accurate.

ANSWER: See response to request for admission #30.

REQUEST FOR ADMISSION NO. 31: Please admit that the information in the Affidavit of Michael O'Connor, attached as Exhibit E is true, accurate, and correct.

RESPONSE: The State admits the facts set forth in paragraphs 1, 2, 3 (per the 2013 CAFR) and 4 to 8.

As to paragraph 10 of the Affidavit, the State admits contribution rates were increased by .2% and that previous ad hoc adjustments were terminated, but denies that the 1.5% annual adjustment or the ad hoc adjustments are a "benefit."

AFFIDAVIT OF
MARLYS HURLBERT

STATE OF Montana)
: ss.
County of Deer Lodge)

The undersigned, Marlys Hurlbert, under oath, does hereby swear or affirm:

1. My name is Marlys Hurlbert, and I reside at 417 Oak, Anaconda, Montana.

2. I am currently a retired member of the Public Employee Retirement System (PERS).

3. I began employment in 1972 as a Psych Aid, and at the time I retired, I was a Psychiatric Technician.

4. I retired in 2005 after working 33 years at the Warms Springs State Hospital.

5. My initial retirement benefit was $2,010 per month, and this has been increased annually by the 3% guaranteed annual benefit adjustment ("GABA").

6. I opted to stay on the State health insurance plan after retirement at a cost of approximately $463.80 per month. The cost of state health insurance is now approximately $762.90 per month.

7. As applied to my retirement benefit, the 3% GABA is approximately $60 per month which covers the increase in the State health insurance premiums which have also increased at about $50-$60 per month each year.

8. Without the 3% GABA I have been receiving, I will be unable to maintain my current standard of living while also paying the increases in the health insurance premiums.

9. Because of my medical issues, I need to keep my health insurance. Also due to my medical issues, I am unable to work full time. I have started part time employment at a local restaurant and casino to supplement my already low retirement benefit.

10. I am dependent on the benefit I received from PERS Defined Benefit Plan at this point in time and rely on the 3% GABA to meet my daily living needs.

EXHIBIT
tabbies
20

Further Affiant Sayeth Not.

DATED this 21st day of October, 2013.

By Marlys Hurlbert
Marlys Hurlbert

On this 21st day of October 2013, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared Marlys Hurlbert known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same.

In witness whereof, I have hereunto set my hand and affixed my notarial seal on the day and year first above written.

Sandra L Wenger
NOTARY PUBLIC FOR THE STATE OF MONTANA
(Notarial Seal) Printed Name: Sandra L. Wenger
Residing at: Anaconda
My Commission Expires 11-16-2015

SANDRA L. WENGER
NOTARY PUBLIC for the
State of Montana
Residing at Anaconda, Montana
My Commission Expires
November 16, 2015

SANDRA L. WENGER NOTARIAL SEAL STATE OF MONTANA

TIMOTHY C. FOX
Montana Attorney General
MICHAEL G. BLACK
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COUNSEL FOR DEFENDANTS

RECEIVED
JUN 16 2014
BROWNING, KALECZYC, BERRY & HOVEN, PC

MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY

ASSOCIATION OF MONTANA RETIRED PUBLIC EMPLOYEES, RUSSELL WRIGG, MARLYS HURLBERT, CAROLE CAREY, I. EDWARD SONDENO, Plaintiffs, v. STATE OF MONTANA, MONTANA PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION, PUBLIC EMPLOYEE RETIREMENT BOARD, GOVERNOR STEVE BULLOCK, in his official capacity, Defendants.	Cause No. CDV-2013-788 **DEFENDANTS' RESPONSE TO PLAINTIFFS' FIRST SET OF DISCOVERY REQUESTS**

REQUEST FOR ADMISSION NO. 1: Please admit that HB 454 of the 2013 Legislative Session as originally introduced did not reduce the Guaranteed Annual Benefit Adjustment ("GABA").

RESPONSE: Admit.

EXHIBIT
21

As to paragraphs 8 and 9 of the Affidavit, the State has insufficient information as to why Mr. Sondeno took the action he did or what his thoughts were regarding those actions, and therefore denies the same.

INTERROGATORY NO. 1: Is it your contention that any of the statements and information in the Affidavit of I. Edward Sondeno, attached as Exhibit B, is not true, accurate and correct? If so, please identify specifically each statement or item of information that you contend is not true, accurate and correct and set forth all facts supporting your contention that the statement or information is not true, correct and accurate.

ANSWER: See response to Request for Admission No. 28.

REQUEST FOR ADMISSION NO. 29: Please admit the information in the Affidavit of Marlys Hurlbert, attached as Exhibit C, is true, accurate, and correct.

RESPONSE: The State admits the facts set forth in in paragraphs 1 to 5 of the Affidavit.

As to paragraph 6 of the Affidavit, the State admits Ms. Hurlbert stayed on the State health insurance plan after retirement. The State does not know the initial cost of that insurance and therefore denies same. The State denies that the cost of state health insurance to Ms. Hurlbert is now $762.90 a month. That was the amount deducted for Ms. Hurlbert's insurance premium for November 2013. However, effective December 2013, Central Payroll notified MPERA that at Ms. Hurlbert's direction, insurance premiums should are no longer deducted from Ms. Hurlbert's retirement benefit.

AFFIDAVIT OF
I. Edward Sondeno

STATE OF MONTANA)
: ss.
County of Gallatin)

The undersigned, under oath, does hereby swear or affirm:

1. My name is I. Edward Sondeno.

2. I reside in Bozeman, Montana.

3. I am currently a member of the Public Employee Retirement System (PERS).

4. I retired in 2009 after working over 30 years in Montana public service. I worked for Montana State University (MSU) and the Bozeman School District, and at that time was in the PERS Defined Benefit Plan. I was also a member of the Montana University System's (MUS) Optional Retirement Program (ORP).

5. I commenced work at MSU in December 1978 and was enrolled in the PERS defined benefit plan. I remained in that plan until November 1993. I then changed to the ORP and was enrolled in that plan from December 1993 to February 2006. When I changed to the ORP, I withdrew all of my retirement contributions to the PERS defined benefit plan.

6. Prior to my retirement, it became obvious that I needed to consolidate all of my service credit under one plan in order to receive sufficient retirement income. In 2006, I worked with the Montana Public Employee Retirement Administration (MPERA), and pursuant to the appropriate statutes, combined all my service credit into PERS, repurchased my previously refunded service credit (§19-2-603, MCA) and purchased additional years of service (§ 19-3-513 MCA) (See attached Exhibits A through M). In detail they are:

EXHIBIT
22

Exhibit A (dated 06 April 06):
Letter to Jennifer Harnden transmitting the Rollover/Transfer Notification form to purchase my previously refunded PERS membership years.

Exhibit B (dated 30 June 06):
Spreadsheet models I prepared estimating how long the 3% GABA might cover anticipated increases in health insurance premiums.

Exhibit C (dated 30 June 06):
This is an actuarial valuation performed in 2006 of the PERS by MPERA's actuarial consultant. The 3% GABA is referenced on the third page, as well as the other benefit elements included in the PERS-DB plan at the time of my purchases. Note that these pages are from a larger document and there are both 2005 and 2006 dates referenced.

Exhibit D (dated 19 June 06):
This is the response I sent to Marjorie Rowley regarding purchase of my ORP service time into the PERS-DB, which was concluded in 2006. It cites various sections of pertinent statute, and I thought it might have some value as a concise reference to those sections, if needed for some reason. (I should note this communication reportedly went through MPERA's internal legal review and was deemed sound.)

Exhibit E (dated 28 July 06):
Letter from Kim Flatow with price quotations to purchase ORP service time into the PERS-DB and additional "one-for-five" service credit. Note the specification that this purchase will require transferring (rollover) account funds to MPERA or other cash-purchase basis.

Exhibit F (dated 30 July 06):
Letter to Kim Flatow, MPERA, to effect transfer of my MSU-Bozeman retirement accounts to the PERS-DB plan.

Exhibit G (dated 31 July 06):
Notes from my telephone conversation with Marjorie Rowley, confirming the benefit elements actuarially-costed and purchased by me, including the 3% Annual GABA adjustment.

Exhibit H (dated 01 Aug. 06):
Written Summary of my phone conversation with Marjorie Rowley regarding the benefit elements actuarially-costed and purchased by me through these various transactions, including the 3% GABA.

Exhibit I (dated 02 Aug. 06):
Documents directing transfer of all/100% of my MSU-Bozeman retirement accounts to MPERA to purchase my ORP time into PERS-DB service time.

Exhibit J (dated 03 Aug. 06):
A verification e-mail to Marjorie Rowley that I was arranging transfer of my MSU-Bozeman retirement accounts to MPERA towards the purchase into the PERS-DB plan of my service time under the ORP plan.

Exhibit K (dated 05 Sept. 06):
My agreement to purchase "one-for-five" service credit (via payroll-deduction payment plan) per their actuarially-priced cost for these benefits.

Exhibit L (dated 01 Nov. 06):
My request to verify the benefits purchased—includes reference to my phone conversation with Marjorie Rowley of MPERA, that the 3% GABA, amongst the other benefits, was included in the actuarial calculation for the costs I paid.

Exhibit M (dated 19 Dec. 06):
Response from Kim Flatow, MPERA, regarding my requests to verify (in writing) the benefit elements/terms I had purchased with my account transfers and cash-purchase actions. The 3% GABA is referenced as a benefit to be received, and their actuarial tables are also attached.

7. When I decided to combine all of my retirement credits, I repurchased my refunded retirement contributions, which amounted to $70,021.39 and represented 15 years of service (Exhibit A). I also transferred my ORP retirement credit and monies into the PERS Defined Benefit Plan (Exhibit I) which amounted to $244,492.17. Moreover, I decided to purchase additional credits pursuant to § 19-3-513 MCA in the so-called "one for five" option, where an employee can purchase additional service credit, one (1) year for every five (5) years of work. Under that provision, I purchased an additional five (5) years of service credit (Exhibit K) at a cost of $111,690.44. The purchase of my ORP service and the additional five (5) years required me to pay the full actuarial cost of the service credit, based on PERS' most recent actuarial valuation. The full actuarial cost was calculated based on my entitlement to a 3% Guaranteed Annual Benefit Adjustment ("GABA") as shown in the June 30, 2006 actuarial valuation (Exhibit C).

8. Prior to making these multiple decisions to pay back my refunded PERS retirement, to transfer funds from the ORP plan to the PERS Defined Benefit Plan, and to purchase additional years of service, I specifically and purposefully considered the costs involved in making such transfers and purchases. Had it not been for the 3% GABA, I would not have chosen to retire when I did. I prepared detailed financial evaluations of the benefits that I would receive on an ongoing basis, including the 3% GABA. I specifically factored into my calculations the assumed increase in health insurance and the 3% GABA in order to insure I would have sufficient retirement funds (Exhibit B).

9. I am dependent on the benefit I receive from PERS Defined Benefit Plan at this point in time and rely on the 3% GABA to meet my daily living needs. Prior to making these irrevocable actions to pay back my refunded service credit, to transfer my ORP assets into PERS, and to purchase the additional years, I did comparative investment estimates as to my return on investment and concluded that taking these actions was my best choice. My health insurance plan is a high deductible plan with the health savings account option. This was another attempt to mitigate the rising cost of health insurance, but it comes with the acceptance of higher financial risk. I specifically considered the 3% GABA in these evaluations as my primary hedge against the rapidly-inflating costs of health insurance and the high deductible associated with my health plan. (Exhibit B).

10. I requested a written explanation of the amounts of money that I would have to pay in order to accomplish my goal of consolidating my retirement credits and purchasing the additional five (5) years of service credit. I worked with Ms. Kim Flatow of the Public Employee Retirement Administration, who provided me with the exact calculations. (Exhibit M).

//

Further Affiant Sayeth Naught.

DATED this 28 day of OCTOBER, 2013

By I. Edward Sondeno
I. Edward Sondeno

On this 28th day of October 2013, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared I. Edward Sondeno known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same.

In witness whereof, I have hereunto set my hand and affixed my notarial seal on the day and year first above written.

ALINA POPA
NOTARY PUBLIC for the State of Montana
Residing at Bozeman, Montana
My Commission Expires March 31, 2017
NOTARIAL SEAL STATE OF MONTANA

(Notarial Seal)

Alina Popa
NOTARY PUBLIC FOR THE STATE OF MONTANA
Printed Name: Alina Popa
Residing at: Bozeman MT
My Commission Expires March 31, 2017

1612 S. Tracy, #8
Bozeman, MT 59715
06Apr06

Jennifer Harnden,
Member Services Analyst
Public Employee Retirement Administration
100 N. Park, Suite 200
P.O. Box 200131
Helena, MT 59620-0131

RE: Rollover Directives

Dear Ms. Harnden:

Enclosed please find the executed rollover directive to purchase my prior (refunded) Public Employee's Retirement System (PERS) membership term. Also, I've included a copy of the TIAA-CREF document for your reference in the event any communication is needed between them and your office for some reason.

If any further information is required from me, please advise and I'll address it promptly. Thank you very much for your assistance.

Sincerely,

I. Edward Sondeno

I. Edward Sondeno

NOTE:
— MAILED 6 APR 06
— INCLUDED COPY OF PERTINENT SHEETS OF CREF FORM

EXHIBIT
A

MONTANA PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION (MPERA)

100 North Park Ave – PO BOX 200131
HELENA MT 59620-0131
(406) 444-3154 or (877) 275-7372

Rollover/Transfer Notification

I am currently a member of the Montana Public Employees Retirement System. I have received a cost statement for $ 20,021.37 from the MPERA for the purchase of 14 years + 11 months service. I understand **this cost statement is valid for 30 days** only and **payment must be received by the MPERA by** 4/27/06. If the full amount is not received by the MPERA within 30 days I will receive proportional service credit only and the cost of the purchase remaining may be recalculated. I will make this purchase with tax-deferred money from an eligible retirement plan named below (check one):

- X a public pension plan qualified under Internal Revenue Code (IRC) Section 401(a)
- ___ an employer plan qualified under IRC Section 401(k)
- ___ a tax-sheltered annuity contract described in IRC Section 403(b)
- ___ a deferred compensation plan under IRC Section 457(b)
- ___ a conduit Individual Retirement Account (IRA) established with funds received from one of the above-named plans
- ___ a traditional IRA
- ___ a Simple IRA

I have checked with the eligible retirement plan administrator to verify that I am eligible to roll or transfer money from this eligible retirement plan into my MPERA 401(a) plan. I have completed all of their required forms to accomplish this rollover/transfer.

I have instructed the eligible retirement plan administrator to issue a check payable to the **Montana Public Employee Retirement Administration (MPERA)** in the amount of $ 20,021.37 prior to 27 APR 2006. I authorize the MPERA to discuss my account with the administrator of the identified plan or account. **I have submitted the pink copy of this form to my eligible retirement plan.**

TIAA-CREF
Name of Financial Institution or Plan Administrator

P.O. Box 1268 | Charlotte | NC | 28201-1268
Mailing Address | City | State | Zip Code

Jonathan Schnell
Contact Person

(800) 842-2009 x 2351
Area Code and Phone Number

C3016163 (TIAA Number)
Account Number

$ 20,021.37
Amount (no more than the amount on the cost statement)

I understand that the MPERA retirement plan is an Internal Revenue Code 401(a) qualified plan. I further understand that I may rollover no more than the amount necessary to make this purchase pursuant to the cost statement received from the MPERA. I certify the funds I rollover/transfer for the purchase are from the plan or account described above, and from no other source.

I. Edward Sondeno
Member's Printed Name

[redacted]
Social Security Number

Member's Signature

(406) 522-6072
Member's Daytime Phone Number

Send original to the MPERA ~ Canary copy for member ~ Pink copy for financial institution

F:\Buybacks\RolloverTransferALL.REV06.2005.doc

JMH

GABA vs. Health Ins Inflation Comparator:

(Rev. 3Aug12)

Monthly PERS Benefit:	$6,135.02	Annual GABA adjustment:	3.00%	(Occurs end of Jan, each year)
Monthly Health Ins Premium:	$461.00	Annual Health Insurance Inflator:	10.60%	(Based on 2012 increase)
(Presently with BPS#7)	(For Sept 2012 change) (HDHP-HS Plan)	Fed Marg Tax Rate: 25.00%	MT Marg Tax Rat	6.90%

Cal Year	Monthly PERS GABA Benefit Increase	Monthly Net PERS After-Tx Benefit Increase	Monthly Health Insurance Cost Increase	Monthly GABA vs. Hlth Ins Increase Pre-Tax	Monthly GABA Post-Tax vs. Hlth Ins Increase	
2013	$184.05	$125.34	$48.87	$135.18	$76.47	
2014	$189.57	$129.10	$54.05	$135.53	$75.05	
2015	$195.26	$132.97	$59.77	$135.48	$73.20	
2016	$201.12	$136.96	$66.11	$135.01	$70.85	
2017	$207.15	$141.07	$73.12	$134.03	$67.95	
2018	$213.37	$145.30	$80.87	$132.50	$64.43	
2019	$219.77	$149.66	$89.44	$130.32	$60.22	
2020	$226.36	$154.15	$98.92	$127.44	$55.23	
2021	$233.15	$158.78	$109.41	$123.74	$49.37	
2022	$240.14	$163.54	$121.00	$119.14	$42.53	
2023	$247.35	$168.44	$133.83	$113.52	$34.61	
2024	$254.77	$173.50	$148.02	$106.75	$25.48	
2025	$262.41	$178.70	$163.71	$98.70	$15.00	
2026	$270.28	$184.06	$181.06	$89.22	$3.00	
2027	$278.39	$189.59	$200.25	$78.14	-$10.67	Hlth ins premium inc now exceeds GABA benefit increase.
2028	$286.74	$195.27	$221.48	$65.27	-$26.21	
2029	$295.35	$201.13	$244.96	$50.39	-$43.82	
2030	$304.21	$207.17	$270.92	$33.29	-$63.76	
2031	$313.33	$213.38	$299.64	$13.69	-$86.26	
2032	$322.73	$219.78	$331.40	-$8.67	-$111.62	
2033	$332.42	$226.38	$366.53	-$34.11	-$140.15	
2034	$342.39	$233.17	$405.38	-$62.99	-$172.22	
2035	$352.66	$240.16	$448.35	-$95.69	-$208.19	
2036	$363.24	$247.37	$495.88	-$132.64	-$248.51	
2037	$374.14	$254.79	$548.44	-$174.30	-$293.65	

NOTE: When difference in right columns become negative, the increase from the GABA adjuster on entire pension amount no longer covers the increase in just health insurance premium costs.

EXHIBIT

B

GABA vs. Health Ins Inflation Comparator:

(Rev. Aug11)

Monthly PERS Benefit:	$5,956.33	Annual GABA adjustment:	3.00% (Occurs end of Jan, each year)
Monthly Health Ins Premium:	$417.00	Annual Health Insurance Inflator:	13.64% (Based on 2011 increase for reg plan)
(Presently with BPS#7)	*(Note: switched to HDHP)*	Fed Marg Tax Rate: 25.00%	MT Marg Tax Rat 6.90%

Cal Year	Monthly PERS GABA Benefit Increase	Monthly Net PERS After-Tx Benefit Increase	Monthly Health Insurance Cost Increase	Monthly GABA vs. Hlth Ins Increase Pre-Tax	Monthly GABA Post-Tax vs. Hlth Ins Increase	
2012	$178.69	$121.69	$56.88	$121.81	$64.81	
2013	$184.05	$125.34	$64.64	$119.41	$60.70	
2014	$189.57	$129.10	$73.45	$116.12	$55.65	
2015	$195.26	$132.97	$83.47	$111.79	$49.50	
2016	$201.12	$136.96	$94.86	$106.26	$42.10	
2017	$207.15	$141.07	$107.80	$99.35	$33.27	
2018	$213.37	$145.30	$122.50	$90.86	$22.80	
2019	$219.77	$149.66	$139.21	$80.56	$10.45	
2020	$226.36	$154.15	$158.20	$68.16	-$4.05	Hlth ins premium inc now exceeds GABA
2021	$233.15	$158.78	$179.78	$53.37	-$21.00	benefit increase.
2022	$240.14	$163.54	$204.30	$35.85	-$40.76	
2023	$247.35	$168.44	$232.16	$15.19	-$63.72	
2024	$254.77	$173.50	$263.83	-$9.06	-$90.33	
2025	$262.41	$178.70	$299.82	-$37.40	-$121.11	
2026	$270.28	$184.06	$340.71	-$70.43	-$156.65	
2027	$278.39	$189.59	$387.19	-$108.79	-$197.60	
2028	$286.74	$195.27	$440.00	-$153.25	-$244.72	
2029	$295.35	$201.13	$500.01	-$204.67	-$298.88	
2030	$304.21	$207.17	$568.21	-$264.01	-$361.05	
2031	$313.33	$213.38	$645.72	-$332.39	-$432.34	
2032	$322.73	$219.78	$733.80	-$411.06	-$514.01	
2033	$332.42	$226.38	$833.88	-$501.47	-$607.51	
2034	$342.39	$233.17	$947.63	-$605.24	-$714.46	
2035	$352.66	$240.16	$1,076.88	-$724.22	-$836.72	
2036	$363.24	$247.37	$1,223.77	-$860.53	-$976.40	

NOTE: When difference in right columns become negative, the increase from the GABA adjuster on entire pension amount no longer covers the increase in just health insurance premium costs.

NOTE: RATHER A 'CASH-FLO' ANALYSIS — DEDUCTABILITY OF PREMIUMS CAN AFFECT ENDING COST (ALTHOUGH IS ALSO SUBJECT TO CHANGE/ELIMINATION).

GABA vs. Health Ins Inflation Comparator:

(Rev. Aug10)

Monthly PERS Benefit:	$5,782.84	Annual GABA adjustment:	3.00% (Occurs end of Jan, each year)
Monthly Health Ins Premium: (Presently with BPS#7)	$500.00	Annual Health Insurance Inflator:	12.87% (Based on 2010 increase)
Fed Marg Tax Rate:	25.00%	MT Marg Tax Rat	6.90%

Cal Year	Monthly PERS GABA Benefit Increase	Monthly Net PERS After-Tx Benefit Increase	Monthly Health Insurance Cost Increase	Monthly GABA vs. Hlth Ins Increase Pre-Tax	Monthly GABA Post-Tax vs. Hlth Ins Increase	
2011	$173.49	$118.14	$64.35	$109.14	$53.79	
2012	$178.69	$121.69	$72.63	$106.06	$49.06	
2013	$184.05	$125.34	$81.98	$102.07	$43.36	
2014	$189.57	$129.10	$92.53	$97.04	$36.57	
2015	$195.26	$132.97	$104.44	$90.82	$28.53	
2016	$201.12	$136.96	$117.88	$83.24	$19.08	
2017	$207.15	$141.07	$133.05	$74.10	$8.02	
2018	$213.36	$145.30	$150.18	$63.19	-$4.87	Hlth ins premium inc now exceeds GABA benefit increase.
2019	$219.77	$149.66	$169.50	$50.26	-$19.84	
2020	$226.36	$154.15	$191.32	$35.04	-$37.17	
2021	$233.15	$158.77	$215.94	$17.21	-$57.17	
2022	$240.14	$163.54	$243.73	-$3.59	-$80.19	
2023	$247.35	$168.44	$275.10	-$27.75	-$106.66	
2024	$254.77	$173.50	$310.51	-$55.74	-$137.01	
2025	$262.41	$178.70	$350.47	-$88.06	-$171.77	
2026	$270.28	$184.06	$395.57	-$125.29	-$211.51	
2027	$278.39	$189.59	$446.48	-$168.09	-$256.90	
2028	$286.74	$195.27	$503.95	-$217.20	-$308.67	
2029	$295.35	$201.13	$568.80	-$273.46	-$367.67	
2030	$304.21	$207.17	$642.01	-$337.80	-$434.84	
2031	$313.33	$213.38	$724.63	-$411.30	-$511.25	
2032	$322.73	$219.78	$817.90	-$495.16	-$598.11	
2033	$332.42	$226.38	$923.16	-$590.74	-$696.78	
2034	$342.39	$233.17	$1,041.97	-$699.58	-$808.80	
2035	$352.66	$240.16	$1,176.07	-$823.41	-$935.91	

NOTE: When difference in right columns become negative, the increase from the GABA adjuster on entire pension amount no longer covers the increase in just health insurance premium costs.

GABA Pension Adjustment vs. Health Insurance Cost Inflation:

[Rev.25Mar09]

Initial Pension Estimate:	$ 69,000	
Annual GABA adjustment, %:	3	%/yr
Base Health Insurance Est, annual:	$ 4,800	— DISTRICT
Annual Health Insurance Inflator, %	10	%/yr

T ESC

Year	Annual Pension Amt	Year-Year Change, $	Annual Hlth Insurance Cost	Year-Year Change, $	
1	$ 71,070	$ 2,070	$ 5,280	$ 480	
2	$ 73,202	$ 2,132	$ 5,808	$ 528	
3	$ 75,398	$ 2,196	$ 6,389	$ 581	
4	$ 77,660	$ 2,262	$ 7,028	$ 639	
5	$ 79,990	$ 2,330	$ 7,730	$ 703	
6	$ 82,390	$ 2,400	$ 8,503	$ 773	
7	$ 84,861	$ 2,472	$ 9,354	$ 850	
8	$ 87,407	$ 2,546	$ 10,289	$ 935	
9	$ 90,029	$ 2,622	$ 11,318	$ 1,029	
10	$ 92,730	$ 2,701	$ 12,450	$ 1,132	— MEDICARE ELIGIBILITY (CURRENTLY 6
11	$ 95,512	$ 2,782	$ 13,695	$ 1,245	
12	$ 98,378	$ 2,865	$ 15,064	$ 1,369	
13	$ 101,329	$ 2,951	$ 16,571	$ 1,506	
14	$ 104,369	$ 3,040	$ 18,228	$ 1,657	
15	$ 107,500	$ 3,131	$ 20,051	$ 1,823	
16	$ 110,725	$ 3,225	$ 22,056	$ 2,005	
17	$ 114,046	$ 3,322	$ 24,261	$ 2,206	
18	$ 117,468	$ 3,421	$ 26,688	$ 2,426	
19	$ 120,992	$ 3,524	$ 29,356	$ 2,669	
20	$ 124,622	$ 3,630	$ 32,292	$ 2,936	
21	$ 128,360	$ 3,739	$ 35,521	$ 3,229	
22	$ 132,211	$ 3,851	$ 39,073	$ 3,552	
23	$ 136,177	$ 3,966	$ 42,981	$ 3,907	
24	$ 140,263	$ 4,085	$ 47,279	$ 4,298	— GABA ↑ CEASES TO COVER HLTH. INS
25	$ 144,471	$ 4,208	$ 52,007	$ 4,728	
26	$ 148,805	$ 4,334	$ 57,207	$ 5,201	
27	$ 153,269	$ 4,464	$ 62,928	$ 5,721	
28	$ 157,867	$ 4,598	$ 69,221	$ 6,293	
29	$ 162,603	$ 4,736	$ 76,143	$ 6,922	
30	$ 167,481	$ 4,878	$ 83,757	$ 7,614	
31	$ 172,506	$ 5,024	$ 92,133	$ 8,376	
32	$ 177,681	$ 5,175	$ 101,346	$ 9,213	
33	$ 183,011	$ 5,330	$ 111,481	$ 10,135	
34	$ 188,501	$ 5,490	$ 122,629	$ 11,148	
35	$ 194,157	$ 5,655	$ 134,892	$ 12,263	
36	$ 199,981	$ 5,825	$ 148,381	$ 13,489	
37	$ 205,981	$ 5,999	$ 163,219	$ 14,838	
38	$ 212,160	$ 6,179	$ 179,541	$ 16,322	
39	$ 218,525	$ 6,365	$ 197,495	$ 17,954	
40	$ 225,081	$ 6,556	$ 217,244	$ 19,749	
41	$ 231,833	$ 6,752	$ 238,969	$ 21,724	— HLTH. INS. COST > PENSION
42	$ 238,788	$ 6,955	$ 262,866	$ 23,897	
43	$ 245,952	$ 7,164	$ 289,152	$ 26,287	
44	$ 253,330	$ 7,379	$ 318,068	$ 28,915	
45	$ 260,930	$ 7,600	$ 349,874	$ 31,807	

PUBLIC EMPLOYEES'
RETIREMENT SYSTEM
of the
STATE OF MONTANA

ACTUARIAL VALUATION
as of June 30, 2006

Prepared by

Mark O. Johnson, F.S.A.
Consulting Actuary

EXHIBIT
C

Appendix B

Provisions of Governing Law

All of the calculations contained in this report are based on our understanding of the benefit and eligibility provisions of the system. The provisions used in this valuation are summarized below for reference purposes.

Normal Retirement	Eligibility:	Age 65 regardless of membership service, or Age 60 and 5 years of membership service, or 30 years of membership service regardless of age.
	Benefit:	Years of service credit, multiplied by highest average compensation (highest 36 consecutive months), multiplied by 1/56th if membership service at retirement is less than 25 years, or multiplied by 1/50th if membership service at retirement is at least 25 years.
	Normal Form:	Monthly benefit for the life of the member, with a death benefit equal to the remaining balance of the member's contribution account.
Early Retirement	Eligibility:	Age 50 and 5 years of membership service, or 25 years of membership service regardless of age.
	Benefit:	Actuarial equivalent of the accrued benefit based on retirement at age 60 or 30 years of membership service.
Disability Retirement	Eligibility:	5 years of membership service
	Benefit:	If hired on or before February 24, 1991, the greater of (a) and (b) below: (a) Years of service credit, multiplied by highest average compensation, multiplied by 90% of 1/56th (1/50th if 25 or more years of membership service), or (b) Highest average compensation multiplied by 25%. If hired after February 24, 1991: (a) Years of service credit, multiplied by highest average compensation, multiplied by 1/56th (1/50th if 25 or more years of membership service).

Death before Retirement	Eligibility:	Prior to 5 years of membership service
	Benefit:	The sum of (a) and (b) below: (a) Return of member contributions with interest, (b) Lump sum payment of one month's salary multiplied by years of service credit, up to a maximum of six months' salary.
	Eligibility:	5 years of membership service
	Benefit:	Either the sum of (a) and (b), or (c) below: (a) Return of member contributions with interest, and (b) Lump sum payment of one month's salary multiplied by years of service credit, up to a maximum of six months' salary, or (c) Actuarial equivalent of the accrued benefit at the time of death of the member.
Termination Benefit	Eligibility:	Prior to 5 years of membership service
	Benefit:	Return of member contributions with interest.
	Eligibility:	5 years of membership service
	Benefit:	Either (a) or (b) below: (a) Return of member contributions with interest, or (b) Actuarial equivalent of the accrued benefit based on a retirement age of 60.
Benefit Adjustments	Eligibility:	Retired members and beneficiaries.
	Benefit:	An annual adjustment (GABA) of 3.0% commencing January 1st, one year after retirement.
Contributions	Members:	6.90% of members' compensation
	Employers:	6.90% of members' compensation (offset by 0.10% of members' compensation paid by the State for local government and school district employers).

Table C-1

Active Members Distribution of Members and Salaries

as of June 30, 2006

Average Annual Salary – By Age Group – DBRP Members

	Completed Years of Service												
Age	0	1	2	3 to 4	5 to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 to 34	35 to 39	40+	Totals
Under 25	21,908	21,326	22,184	24,113	31,096	-	-	-	-	-	-	-	22,052
25 to 29	25,124	25,708	27,665	30,633	31,386	-	-	-	-	-	-	-	27,177
30 to 34	25,630	27,019	29,080	30,579	34,773	37,176	-	-	-	-	-	-	30,029
35 to 39	24,823	24,542	28,525	30,325	34,961	41,226	40,937	36,291	-	-	-	-	31,081
40 to 44	24,648	24,831	24,186	27,267	31,866	38,568	41,329	42,772	42,394	-	-	-	31,869
45 to 49	24,254	21,906	25,388	26,421	30,517	36,364	40,538	42,814	44,828	48,550	-	-	32,427
50 to 54	24,457	22,910	25,610	26,517	29,361	33,019	39,411	44,848	46,343	46,658	55,079	-	33,917
55 to 59	25,373	22,090	23,374	26,790	28,336	33,395	35,773	39,414	44,483	50,920	52,956	-	33,731
60 to 64	21,681	26,022	21,189	24,993	29,330	30,301	33,978	38,773	40,565	45,517	48,190	47,904	32,387
65 to 69	18,162	13,482	16,954	25,913	22,478	25,806	31,336	30,825	34,002	54,168	43,410	51,194	26,589
70 & Over	14,054	13,736	15,134	18,148	18,915	28,094	26,122	32,979	29,404	30,165	42,109	31,041	21,443
Totals	24,335	23,742	25,464	27,563	30,541	34,782	38,038	41,440	44,149	48,546	49,531	45,359	31,930

Table C-3

Active Membership Data History

	Active Members					
Valuation Date (June 30)	Total Contributing Members	Annual Salaries in Thousands	Average Annual Salary	Average Age	Average Years of Service	Average Hire Age
1998	28,091	$660,588	$23,516	44.9	8.8	36.1
2000	29,500	739,831	25,079	45.4	8.8	36.6
2002	29,808	815,130	27,346	46.2	9.1	37.1
2004	28,201	831,564	29,487	47.3	9.8	37.5
2005	28,213	854,570	30,290	47.6	9.9	37.7
2006	27,962	892,825	31,930	48.0	9.9	38.1

—MY GRT
MAILED
22JUN06

1612 S. Tracy, #8
Bozeman, MT 59715
19Jun06

Marjorie Rowley
Member Services Supervisor
Public Employee Retirement Administration
100 N. Park, Suite 200
P.O. Box 200131
Helena, MT 59620-0131

RE: Service Purchase Request of 22Apr06 & your response of 15Jun06

Dear Ms. Rowley:

I am in receipt of your recent response to my 22Apr06 request for quotations to purchase membership service/service credit. Not wishing to consume anyone's time unnecessarily, I did a review of numerous sections of statute prior to sending my request. I noted the section you referenced in your reply (MCA 19-3-512) which addresses the process for purchasing non-Title-19 public service (Federal service, etc.), but does not disallow the purchase of credit for Title 19 programs where such action is elsewhere allowed in statute. Consequently, there are other sections of statute that must be applied to my situation, and to which I have made reference previously.

Due to the various segments of my public service in Montana, and my present status, I meet the tests for several areas of statute regarding my request for quotations. As you know, we have already processed the repurchase of membership service time for my initial, and largest, portion of Montana public employment (the defined benefit plan, a plan also provided for in MCA Title 19). Due to the chronology of my work history, my particular Montana public employment, my prior employment with the university system, and my recent return to "covered employment" outside the university system, I meet the tests for choice and prior service purchase contained in MCA 19-3-21 (and the applicability of these choice options and chronology to my circumstances were verified last year with Kim Flatow of your department). This allows the invocation of MCA 19-3-2113, subparts (2)(a) and (2)(b) as noted below:

19-3-2113. Reinstatement of plan membership -- purchase of prior service credit in defined benefit plan.

(2) (a) An employee who returns to covered employment after terminating membership in the defined benefit plan **[which I have done]**, *who is eligible to make a plan choice* **[which I am]**, *and who elects to join the defined benefit plan* **[which I am presently in and is the default option]** *may reinstate prior*

EXHIBIT
D

membership service and service credit as provided in 19-2-603 **[which was completed as required in April of this year].**

(2) (b) An employee who returns to covered employment after terminating membership in the defined contribution plan or the optional retirement program **[which I have most recently done],** *who is eligible to make a plan choice* **[which I am],** *and who elects to join the defined benefit plan* **[which I am presently in and is the default option]** *may purchase prior membership service and service credit by paying to the board the full actuarial cost of the service credit as of the latest actuarial valuation of the defined benefit plan* **[and I am again requesting the quotation for this action].** *The member may not purchase membership service and service credit under this section in excess of the member's length of service in the defined contribution plan or the optional retirement program* **[meaning that I may purchase membership/service credit into the defined benefit program for up to the full length of ORP service, and I am again requesting the quotation for purchase of the full term of ORP service].**

By circumstance, my public service record meets the tests for repurchase of the prior membership service in the defined benefit program (DBP), which has already been completed, as well as the option to purchase membership/service credit for ORP service as noted above. The significant difference between these two subsections is that the costing methods for purchasing service are different according to the type of prior service – via the terms of MCA 19-2-603 where so specified, or by the standard actuarial cost calculation in the case of purchasing ORP service time into the DBP. An employees' option to purchase credit for the term of ORP service is clearly specified – there would be no reason for the language in these sections to exist in the first place if the intent were not to provide these options for qualifying employees. The Montana PERA's own recent comments to the State Administration Legislative Committee discusses timing details for employees purchasing ORP service time into the DBP under MCA 19-3-2113.

From a pragmatic standpoint, I would expect the PERS to be completely indifferent towards any actuarially-calculated transaction which, by definition, reimburses a program for the financial impact of whatever employee option is being invoked. Since this process requires the employee to make a program 'whole' from their own assets for whatever such action the employee chooses to take, PERS incurs no financial loss or benefit from the action (which is as it should be).

In my 22Apr06 request, I had also asked for a quotation to purchase three (3) years of "1-for-5" service credit (my account should presently reflect over 15 years of membership service). This request has not yet been acknowledged or responded to.

RE: Service Purchase Request of 22Apr06 & your response of 15Jun06, pg 3/4:

I also requested a current account report (since such information is not yet available on-line), which I have not yet received.

To summarize:

1. Please note this as my second written request for a quotation to purchase time into PERS for my service term under the ORP program. This would be for the period of December, 1993 through February, 2006, inclusive (147 months total), which has been verified by previous documentation provided by me and your recent communications with MSU Personnel and Payroll Services. Again, statute specifies this cost to be computed by your standard, non-discriminatory actuarial method as previously noted, and, once again, my personal data is:

   Full-Name: Iver Edward Sondeno

   Address: 1612 South Tracy, #8
Bozeman, MT 59715

   Social Security Number: [redacted]

2. Please provide me with the quotation to purchase three (3) years of "1-for-5" service credit.

3. Please send me a current written statement of my account.

4. I presume service purchases may be paid for via a combination of rollover funds and monthly payroll-deduction payments?

Considering it has been nearly two months since my original 22Apr06 request, I would appreciate prompt provision of the requested quotations.

I would close with the comment that this is not a request for some type of accommodation, but simply a request from an employee who has devoted their professional life to Montana public service and who wishes to invoke available statutory options to consolidate a fractured collection of plans into something that will hopefully provide for a rational personal retirement plan after a lifetime of public service to Montana.

RE: Service Purchase Request of 22Apr06 & your response of 15Jun06, pg 4/4:

Thank you for your prompt attention to this request, and please let me know if I may provide any other assistance.

Sincerely,

I. Edward Sondeno

PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION

BRIAN SCHWEITZER
GOVERNOR

mpera.mt.gov

STATE OF MONTANA

HELENA (406) 444-3154
TOLL FREE (877) 275-7372
FAX (406) 444-5428

100 N. PARK, SUITE 200
PO BOX 200131
HELENA, MT 59620-0131

July 28, 2006

I. Edward Sondeno
1612 S. Tracy # 8
Bozeman MT 59715

Dear Mr. Sondeno:

Enclosed are three cost statements. One cost statement reflects the balance due to purchase 12 years three months of service from Montana State University – ORP. Also enclosed are two cost statements reflecting the balance due to purchase One for Five service both with and without the purchase of the ORP service. Please not the distinction listed on each individual cost statement.

Enclosed with the cost statements are the required forms, both for a rollover of funds and for monthly payroll deduction. Funds from a 457 plan or a 403 (b) plan cannot be used for the purchase of One for Five service.

If you have any questions, please feel free to contact me.

Sincerely,

Kim Flatow

Kim Flatow
Member Services Bureau Chief
406-444-5449

EXHIBIT
E

1612 S. Tracy, #8
Bozeman, MT 59715
30Jul06

Kim Flatow, Chief
Member Services Bureau
Public Employee Retirement Administration
100 N. Park, Suite 200
P.O. Box 200131
Helena, MT 59620-0131

RE: CREF Rollover Agreement

Dear Ms. Flatow:

Enclosed please find a rollover acceptance agreement for TIAA-CREF. Upon receipt, please complete Page 5 of the sheet (you may ignore Page 6) and return it to me immediately, so that I can forward it on to TIAA-CREF and complete the transfer within your specified deadline.

If any questions arise, my contact information is as follows:

Work Voice:	(406) 522-6072
Cell:	(406) 599-6343
Home Voice:	(406) 587-2236
Work E-Mail:	esondeno@bozeman.k12.mt.us
Home E-Mail:	czymtn@gmail.com

Thank you for your prompt assistance.

Sincerely,

I. Edward Sondeno

NOTE: SENT 31JUL06 TO MARJORIE ROWLEY (FLATOW OUT-OF-OFFICE 31JUL → 4AUG06)

EXHIBIT
F

NOTE! 2AUG06
— ORIGINAL REC'D/RET'D FROM MARJORIE W/SIGNAT.

1/1

[redacted]

TELECON W/ MARJORIE ROWLEY, MT PERS: 31 JULY 06
444 — 5454 (mrowley@mt.gov)
RE. PURCHASE QUOTATIONS SENT BY K. FLETOW
(KIM IS OUT THIS WK.)

1) VERIFIED THAT ACTUARIAL CALCULATION WAS BASED ON:
— ORP SERVICE CREDITED AS "MEMBERSHIP SERVICE" (PER 19-3-21
— 2% SVC. FACTOR FOR RETIREMENT PENSION CALC.
— 3% GABA
— MY CONTRIBUTION LEVELS AS OF APRIL 06
(THIS IS SUPPOSED TO BE CALC'D W/ ACTUARIAL SOFTWARE REFLECTING
— I ADVISED MARJORIE I'D SEND A CONFIRMATION OF THE ABOVE FOR VERIFICATION.

2) MARJORIE ADVISES CAN EXTEND QUOTE AN ADD'L 30 DAYS BY PAYING ONE OF THE 60-MO PAYMENTS ??

☑ mailed, e NOON 31 JUL 06 — 3) SEND MARJORIE THE ROLLOVER ACCEPTANCE FM. & SHE'LL PROCESS PROMPTLY

☑ 4) NEED TO DO CREF ROLLOVER FORMS & PERS ROLL FORM
— DO ROLLOVER & THEN MARJORIE WILL RECALC BALANCE DUE & MONTHLY PAYMENTS FOR BALANCE

5) I ASKED ABOUT CITING 19-3-2113(2)(b) ALSO ON PAYROLL DEDUCTION FORM?
— DO TRANSFER 1ST, THEN RECALC.

EXHIBIT G

1612 S. Tracy, #8
Bozeman, MT 59715
01Aug06

Marjorie Rowley
Member Services Supervisor
Public Employee Retirement Administration
100 N. Park, Suite 200
P.O. Box 200131
Helena, MT 59620-0131

RE: Actuarial Basis for ORP Membership-Service Purchase Quotations

Dear Ms. Rowley:

As we discussed yesterday, this is to confirm my understanding of the actuarial basis used to calculate the ORP membership-service and 'one-for-five' purchase quotations recently provided to me by Kim Flatow. From our conversation, I understand the following elements were included in the calculation of these quotations:

- As noted in statute, ORP time purchased into the PERS Defined Benefit Plan would be credited as "membership service", counting towards eligibility for service retirement. (As noted in the quotations, the 'one-for-five' purchases would purchase additional service-credit increasing retirement benefit payments, but not eligibility for retirement.)

- Since purchase of the ORP time would result in membership service in excess of 25 years in my case, the higher service factor of 2% per year of membership-service/service-credit was used to calculate future retirement benefits.

- The 3% GABA presently in statute was used to calculate future retirement benefits.

- The contribution amounts to my PERS Defined Benefit Plan account as of the time of my original request (April, 2006) were used to calculate future retirement benefits.

Please provide me a verification that the above is a correct understanding of the actuarial basis for the quotations I received and of the benefit factors being purchased for the quoted costs.

EXHIBIT
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H

—mailed 3Aug06
by reg. USPS

Actuarial Basis for ORP Membership-Service Purchase Quotations, pg 2/2:

Thank you very much for your assistance with this request.

Sincerely,

I. Edward Sondeno

1612 S. Tracy, #8
Bozeman, MT 59715
02Aug06

Marjorie Rowley
Member Services Supervisor
Public Employee Retirement Administration
100 N. Park, Suite 200
P.O. Box 200131
Helena, MT 59620-0131

RE: Rollover Directives and 'One-for-Five' Quotation

Dear Ms. Rowley:

Enclosed please find the executed rollover directive to purchase my ORP time into additional membership-service time with the Montana Public Employee's Retirement System Defined Benefit Plan. Also, I've included copies of the TIAA-CREF documents for your reference in the event any communication is needed between them and your office.

As we discussed this week, Kim Flatow of your office provided me with various monthly payment options to purchase a single year of 'one-for-five' service credit (assuming purchase of my ORP time). Please send me the payment option costs for a monthly-payment plan to purchase five years of 'one-for-five' service credit (assuming purchase of ORP time) as a single purchase agreement. This may be the most appropriate option for my situation, and I do not know of any statutory or ARM prohibition against such a purchase option. This would require much less paperwork and time from your office versus the processing of five separate payment agreements to purchase each year individually. It would also allow this process to proceed in sequence (immediate processing of the ORP time purchase, followed by processing of the 'one-for-five' service credit related to the ORP time).

If any further information or action is required from me, please advise and I'll address it promptly. My contact information is:

Work Voice:	(406) 522-6072
Cell:	(406) 599-6343
Home Voice:	(406) 587-2236
Work E-Mail:	esondeno@bozeman.k12.mt.us
Home E-Mail:	czymtn@gmail.com

— MAILED 3AUG06
BY CERTIFIED MAIL
#7006 0100 0001
2612 0267

EXHIBIT
I
tabbles

Rollover Directives and 'one-for-Five' Quotation, pg 2/2:

Thank you very much for your assistance.

Sincerely,

I. Edward Sondeno

MONTANA PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION (MPERA)

100 North Park Ave ~ PO BOX 200131
HELENA MT 59620-0131
(406) 444-3154 or (877) 275-7372

Rollover/Transfer Notification

I am currently a member of the Montana Public Employees Retirement System. I have received a cost statement for $ 244,492.17 from the MPERA for the purchase of [illegible] ORP [illegible] service. I understand **this cost statement is valid for 30 days** only and **payment must be received by the MPERA by** [illegible]. If the full amount is not received by the MPERA within 30 days I will receive proportional service credit only and the cost of the purchase remaining may be recalculated. I will make this purchase with tax-deferred money from an eligible retirement plan named below (check one):

- X a public pension plan qualified under Internal Revenue Code (IRC) Section 401(a)
- ____ an employer plan qualified under IRC Section 401(k)
- ____ a tax-sheltered annuity contract described in IRC Section 403(b)
- ____ a deferred compensation plan under IRC Section 457(b)
- ____ a conduit Individual Retirement Account (IRA) established with funds received from one of the above-named plans
- ____ a traditional IRA
- ____ a Simple IRA

I have checked with the eligible retirement plan administrator to verify that I am eligible to roll or transfer money from this eligible retirement plan into my MPERA 401(a) plan. I have completed all of their required forms to accomplish this rollover/transfer.

I have instructed the eligible retirement plan administrator to issue a check payable to the **Montana Public Employee Retirement Administration (MPERA)** in the amount of $ 100% of all accounts prior to [illegible]. I authorize the MPERA to discuss my account with the administrator of the identified plan or account. **I have submitted the pink copy of this form to my eligible retirement plan.**

TIAA-CREF
Name of Financial Institution or Plan Administrator

P.O. Box 1268	Charlotte	NC	28201-1268
Mailing Address	City	State	Zip Code

National Contact Center	(800) 842-2776
Contact Person	Area Code and Phone Number
U30/6161 and M252Ø143 (CREF numbers)	$ 100% of all accounts
Account Number S	Amount (no more than the amount on the cost statement)

I understand that the MPERA retirement plan is an Internal Revenue Code 401(a) qualified plan. I further understand that I may rollover no more than the amount necessary to make this purchase pursuant to the cost statement received from the MPERA. I certify the funds I rollover/transfer for the purchase are from the plan or account described above, and from no other source.

I. Edward Sondeno	[redacted]
Member's Printed Name	Social Security Number
I. Edward Sondeno	(406) 522-6072
Member's Signature	Member's Daytime Phone Number

Send original to the MPERA ~Canary copy for member ~ Pink copy for financial institution abo

Marjorie,
I just put the rollover request documents for TIAA-CREF in overnight mail and have sent copies to you as well, along with the rollover notification form. This will be the request to roll the CREF accounts in-full over to you to apply to my ORP membership-service purchase. Following the rollover transaction, please advise me of the remaining balance for the ORP purchase and we'll deal with that.

As you'll see in your letter, I still want to get the purchase plan numbers for the 5 years of one-for-five time as a single transaction to see if we can't make that as simple as possible. As I said I would do, I also sent you a confirmation and verification request from our phone conversation about the actuarial basis data used for the quotations.

Hopefully all the above will arrive tomorrow, or by Monday at the latest. I hope you'll have the rollover payment from CREF next week.

As always, thanks for your assistance, and please let me know if you need anything else from me.

Ed

Ed Sondeno
Bozeman, MT

— E-mailed to Rowley 3/14/06

— Kim Flatow — 444 — 5449

— Marjorie Rowley — 444 — 5454, mrowley@mt.gov

EXHIBIT
tabbies
J

1612 S. Tracy, #8
Bozeman, MT 59715
05Sept06

Kim Flatow, Chief
Member Services Bureau
Public Employee Retirement Administration
100 N. Park, Suite 200
P.O. Box 200131
Helena, MT 59620-0131

RE: Purchase of One-for-Five Service Credit

Ms. Flatow:

Enclosed please find the Payroll Deduction Authorization form to purchase five (5) years of 'One-for-Five' service credit as per your cost quotation dated 23Aug06 (copy attached). As noted, this is for the 24-month payment plan for 24 monthly payments of $5,037.24, beginning in September, 2006.

My two outstanding information requests that remain to be addressed are:

- Provision of a current statement of my PERS account as soon as my recent purchase of Membership Service for my ORP service term is posted to my account.

- Verification of the key actuarial elements included in these various cost quotations as detailed in my written request to Marjorie Rowley, dated 01Aug06.

Thank you for your assistance with this process, and please contact me if there are any questions.

Sincerely,

I. Edward Sondeno

I. Edward Sondeno

EXHIBIT
K

— SENT TO KIM FLATOW
7 SEPT; VIA
CERTIFIED MAIL
7006 [illegible]

— WAS [illegible]

MONTANA PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION
100 North Park Avenue, Suite 200 ~ PO BOX 200131
Helena, MT 59620-0131
(406) 444-3154 or (877) 275-7372

PAYROLL DEDUCTION AUTHORIZATION

Members of retirement systems administered by the MPERA may purchase various types of service under the terms in Title 19 of the Montana Code Annotated (MCA). If you choose to pay by tax deferred payroll deductions, you must complete this irrevocable contract.

By signing this contract you agree to the terms of Title 19 of the MCA, including the following:

1. This contract for payroll deduction may not be revoked, except if you die or terminate employment. (Termination of employment is defined in section 19-2-303, MCA).
   A. Upon termination, you may pay the balance due for the service being purchased under this contract. The balance due must be paid directly to the MPERA in a lump sum.
   B. Upon death, your estate may pay the balance due for the service being purchased under this contract. The balance due must be paid directly to the MPERA in a lump sum.
2. The minimum length of time for this contract is 3 months and the maximum is 60 months.
3. Your employer must sign this form and pick up the payments (additional contributions) for purchasing this service. Although designated as employee contributions, your employer must send the payments (additional contributions) directly to the MPERA. You do not have the option to directly receive the amount deducted for the payment.
4. While this contract is in effect, the MPERA will accept payment only from your employer. The MPERA will not accept payment from you for the type of service being purchased by this contract.
5. This contract will only apply to compensation paid after the completed contract is signed by you and your employer's authorized representative, and received by the MPERA.
6. You may enter into more than one contract to purchase service by payroll deduction. However, a subsequent contract may not amend this contract.

Complete ALL remaining blanks below and forward to your employer by 9/22/06.

- I agree to the above terms and direct my employer to make the following deductions from my salary to purchase 60 months of 1-FOR-5 service under Section 19 - 3 - 513, MCA.
- I understand that my employer must initiate payroll deductions of $5,037.24 per month for 24 months starting no later than 9/22/06.
- I understand this cost statement is valid for 30 days and this completed form must be filed with the MPERA by 9/22/06.

Signature of Member (employee) — Date: 01 SEPT 06

I. EDWARD SONDENO
Name of Member (employee) - Printed — [redacted]
Social Security Number

The employer agrees to initiate the deductions required by this contract no later than 9/20/06.

Mary C. Sandvoid — Payroll - 406-522-4043 — 9/5/06
Signature of Employer Representative — Title and Telephone Number — Date

MPERA use only
Date entered:
Initials

Member keeps pink copy, employer keeps yellow copy, and MPERA receives white original form.

PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION

BRIAN SCHWEITZER
GOVERNOR

mpera.mt.gov

STATE OF MONTANA

HELENA (406) 444-3154
TOLL FREE (877) 275-7372
FAX (406) 444-5428

100 N. PARK, SUITE 200
PO BOX 200131
HELENA, MT 59620-0131

ONE-for-FIVE COST STATEMENT

August 23, 2006

I. Edward Sondeno
1612 S. Tracy #8
Bozeman MT 59715

This cost statement shows the amount required to qualify additional service credit. Service purchased may be used for retirement calculations only. This service Does Not count towards the years of service required for minimum retirement eligibility.

Years eligible to purchase: 5

TOTAL DUE for 5 years of service if paid in full by: 9/22/06 $111,690.44

Several options are available for purchasing this service: (1) Pay the balance in full by 9/22/06; (2) Rollover or transfer funds from an eligible plan to pay the total due by 9/22/06; (3) Make after-tax monthly payments (first payment must be received by MPERA by 9/22/06); or (4) If you are an active member, make monthly tax deferred payments by payroll deduction.

If you don't pay in full or begin a monthly payment plan by 9/22/06, this cost statement becomes invalid. Partial payments (rollover or transferred) will prompt a revised cost statement for the remaining balance due. Rollover or fund transfers require completion and filing the enclosed Rollover/Transfer Notification. Your rollover company may also require the completion of specific forms – please contact them.

If you elect a monthly payment plan, you may only purchase one year at a time. Upon completion of payment for one year, contact our office for the cost of any additional years of service you may wish to purchase. Interest will be charged on any unpaid balance at the rate of 8%. You may elect to make monthly payments, starting no later than 9/22/06. Below are payment plans to choose from. Again, if you don't pay in full or begin an installment plan by 9/22/06 this cost statement becomes invalid.

12 Months	$9,701.32	48 Months	$2,712.07
24 Months	$5,037.24	60 Months	$2,249.78
36 Months	$3,485.64		

If you elect to make monthly payroll deductions for the qualification of this service, the enclosed form is required. Please complete the form and have your clerk sign as soon as possible. **Please inform your payroll clerk this is a One for Five payment (code 040).** The form must be returned to MPERA before the first payment is received. Installment payments made will be held in your additional contribution account. Failure to make an installment payment forfeits the right to make any further payments and proportional service credit will be granted.

The required form is enclosed if you wish to rollover or transfer funds from another qualified plan. If you have any questions, please contact, Kim Flatow, Member Services Analyst at (406) 444-3154.

DISCLAIMER: This cost statement is valid for **30** days. It is based on your retirement plan as set forth in Montana statutes and administered by the MPERA. It was calculated using the benefit structure and actuarial factors in effect as of this date. The actuarial factors are currently being challenged in a court of law. If a lawsuit results in a change to those factors, this cost statement may become invalid. The cost may increase or decrease even if you have paid the balance in full or are involved in a service purchase contract.

MY COPY

— SENT CERTIFIED MAIL TO FLATOW 2NOV06

— PER MIKE ROBERTS, BABCOCK ST. (BZN) U.S.P.S., THIS WAS DELIVERED 3NOV06 SIGNED FOR BY TINA BUNCH

1612 S. Tracy, #8
Bozeman, MT 59715
01Nov06

Kim Flatow, Chief
Member Services Bureau
Public Employee Retirement Administration
100 N. Park, Suite 200
P.O. Box 200131
Helena, MT 59620-0131

RE: Outstanding Data Requests

Ms. Flatow:

I have two outstanding data requests to the PERA that have not yet been responded to, despite repeated requests.

The first item is my request for an updated, current statement of my account, indicating my current terms of membership service and service credit.
I realize you normally send out account statements only once a year, but I feel this is a reasonable request, given the substantive changes that have occurred to my account over the past few months. Also, I urge the PERA to implement some kind of on-line account access for its members. Even if this were simple informational, read-only access, it would be very useful, and I would expect it to eliminate the need to mail many of the annual account statements to your members, saving PERA those expenses.

The second item is the verification of the key elements included in the actuarial calculations used to price my recent membership service and service credit purchases (since I don't have access to the actuarial calculation). I made a written request for this information to Marjorie Rowley on 01Aug06, as well as additional verbal requests since then. I have my notes from my conversation with Ms. Rowley on the topic, but a written clarification from PERA is appropriate. This should be a simple request that can be readily answered from the construction of the actuarial formula, and I feel this, too, is a very reasonable request given the magnitude (to me) of the purchases involved (I doubt many people would purchase a house for a third-of-a-million dollars without knowing its location, size, etc.!). Again, the four items I'm requesting verification of are as follows:

1. What compensation level was used to calculate my purchase costs?

EXHIBIT

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2. As noted in statute, my ORP time purchased into the PERS Defined Benefit Plan has been credited as "membership service", counting towards eligibility for service retirement. (As noted in the quotations, the 'One-for-Five' purchases would purchase additional service-credit increasing retirement benefit payments, but not eligibility for retirement.)

3. Since my purchase of ORP time results in membership service in excess of 25 years credited to my account, the higher service factor of 2% per year of membership-service/service-credit was used to calculate future retirement benefits.

4. The 3% GABA presently in statute was used to calculate future retirement benefits.

Please provide me a written verification that the above items were included in the actuarial calculation for the quotations I received (and in the case of #1, the amount used in the calculations) and are correct for the benefit factors purchased for the costs I've incurred.

Thank you for your prompt attention to these requests.

Sincerely,

I. Edward Sondeno

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com
OFFICIAL USE

Postage	$	$0.39
Certified Fee		$2.40
Return Receipt Fee (Endorsement Required)		$0.00
Restricted Delivery Fee (Endorsement Required)		$0.00
Total Postage & Fees	$	$2.79

0715
Postmark Here
BOZEMAN MT 59715 NOV -2 2006 USPS
11/02/2006

Sent To
Street, Apt. No.; or PO Box No.
City, State, ZIP+4
PS Form 3800, June 2002 See Reverse for Instructions

7006 0100 0001 2615 0766

Label #: 70060100000126150766
Customer Postage -$0.39
Subtotal: $2.40
Issue PVI: $2.40
========
Total: $2.40
Paid by:
Cash $2.40
Bill#:1000400119821
Clerk:09
All sales final on stamps and postage.
Refunds for guaranteed services only.
Thank you for your business.
Customer Copy

Rec'd 21Dec06

PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION

BRIAN SCHWEITZER
GOVERNOR

STATE OF MONTANA

mpera.mt.gov

HELENA (406) 444-3154
TOLL FREE (877) 275-7372
FAX (406) 444-5428

100 N. PARK, SUITE 200
PO BOX 200131
HELENA, MT 59620-0131

December 19, 2006

I. Edward Sondeno
1612 S. Tracy #8
Bozeman MT 59715

EXHIBIT
M

Dear Mr. Sondeno:

Thanks you for your recent inquiry regarding your retirement account with the Public Employees' Retirement System (PERS). Please accept my apology for the delay in responding to you. We have been impacted by the large number of requests for January 1st estimates from members.

As an active member of PERS, you have purchased previous service for retirement credit. You were previously employed with Montana State University. You received a lump sum distribution of your retirement account in 1994. You purchased your fourteen years 11 months of refunded service. The date of this employment was January 1979 through November 1993. This service purchase is both membership service and service credit.

Subsequently, you request the cost to purchase service with the Optional Retirement Program (ORP). Your ORP service was from December 1993 through February 2006. Upon completion of the service purchase for this ORP employment, you accrued 12 years and 3 months of both membership service and service credit.

You are also currently involved in the cost to purchase five years of One for Five service. One for Five service is not membership service and cannot be used to reach an early retirement status. Please reference 19-3-513, MCA:

> 19-3-513. Application to purchase additional service. (1) Subject to 19-3-514, a member with at least 5 years of membership service may, at any time before retirement, file a written application with the board to purchase 1 year of additional service credit for each 5 years of membership service.
> (2) To purchase this service credit under this section, a member shall pay the actuarial cost of the service credit, based on the system's most recent actuarial valuation.
> **(3) Service credit purchased under this section is not membership service and may not be used to qualify a member for service retirement.**

When purchasing your refunded service from January 1979 – November 1993, you were required to repay the amount of your refund and the interest the funds would have accrued had they remained on deposit with PERS.

Enclosed are the actuarial tables used to compute the cost of your ORP service and your One For Five service. The compensation used to prepare the cost of your ORP service was $75,263.10. The cost to purchase any Other public service and One for Five service was computed, using the compensation information received from the Teachers' Retirement System (enclosed) reflected as $73,989.99 for FY 05/06. Utilizing ten months of this salary and two months of your compensation from SD#7 Bozeman was use in the computations for your ORP and One for Five service.

The cost computation to purchase your ORP service and One for Five service is correct. The closer a member gets to retirement, the more expensive the cost becomes. Currently you have over 25 years of service credit. When you retire you will receive a monthly benefit based on 2% of your highest average compensation. In order to receive the Guaranteed Annual Benefit Adjustment, (GABA), you must be retired for 12 months. The 3% GABA increase is then received with the next January benefit payment. For example, if you retire on June 30, 2009, you would be retired fro 12 months on July 1, 2010, and your first GABA increase would become effective with the January 2011 benefit payment.

A new annual statement will be generated and mailed directly to your home address. The data base manager who performs this function is currently out of the office. As soon as possible when she returns, the statement will be mailed. I anticipate her return next week.

If you have any questions, please feel free to contact me at any time.

Sincerely,

Kim Flatow

Kim Flatow
Member Services Bureau Chief

Page: 1 Document Name: untitled

3MPR1080

MONTANA PERA
COMPENSATION INQUIRY

USER = CV0304
12/13/2006

RET SYS: 01 MEMB ID: [redacted] NAME: SONDENO I EDWARD

FISCAL YEARS PLAN ELECTED: DB

MONTHS	2002	2003	2004	2005	2006	2007
JUL						7421.06
AUG						7421.06
SEP						7421.06
OCT						7421.06
NOV						7421.05
DEC						
JAN						
FEB						
MAR					6849.97	
APR					6849.97	
MAY					6849.97	
JUN					6849.97	
TOTALS:					27399.88	37105.29

STARTING DATE FOR 36 MONTH RANGE: TOTAL FOR RANGE:
HIGHEST 36 MONTH RANGE STARTS: 12 2003 TOTAL FOR RANGE: 64,505.17
ENTER=RETURN, PF7=BKWD, PF8=FWD, PF10=PREV MENU, PF12=CALC, CLEAR=LEAVE APPN

Wages/prd Next Data Work Hx Contrb Hx Basic 1 Inquiry Menu List

RTEE02D ES40 Montana Teachers' Retirement System 06/02/2006
Wages and Contributions (By Fiscal Year) 12:27

Member SSN [redacted] SONDENO, IVER E TIAACREF

Fisc Year	Actual Wages	EPU Contrib	Regular Contrib	Add'l Contrib	Total Contrib	Interest	Serv Yrs	TIAA Wages
05/06	.00	.00	.00	.00	.00	.00	.00	73989.95
04/05	.00	.00	.00	.00	.00	.00	.00	64638.60
03/04	.00	.00	.00	.00	.00	.00	.00	64388.64
02/03	.00	.00	.00	.00	.00	.00	.00	63514.04
01/02	.00	.00	.00	.00	.00	.00	.00	60615.08
00/01	.00	.00	.00	.00	.00	.00	.00	58315.56
99/00	.00	.00	.00	.00	.00	.00	.00	57788.61
98/99	.00	.00	.00	.00	.00	.00	.00	54946.71
97/98	.00	.00	.00	.00	.00	.00	.00	53293.23
96/97	.00	.00	.00	.00	.00	.00	.00	50200.26
95/96	.00	.00	.00	.00	.00	.00	.00	47204.43
94/95	.00	.00	.00	.00	.00	.00	.00	44865.00
93/94	.00	.00	.00	.00	.00	.00	.00	25666.69

Montana PERS
Service Purchase Factors
By Age and Service at Purchase
Benefit & Elig

Age	75
Service	20

Age Nearest Birthday	Completed Years of Service																																		
2.712904272	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35
51	0.000	0.135	0.271	0.407	0.543	0.680	0.817	0.955	1.093	1.232	1.376	1.525	1.672	1.823	1.995	2.164	2.326	2.484	2.644	2.806	2.970	3.185	3.508	3.855	4.225	4.620	4.983	5.339	5.711	6.098	6.501	6.718	6.934	7.151	7.368	7.585
52	0.000	0.139	0.280	0.420	0.561	0.702	0.842	0.985	1.127	1.270	1.415	1.564	1.720	1.873	2.031	2.212	2.390	2.559	2.724	2.891	3.060	3.232	3.460	3.802	4.168	4.560	4.956	5.328	5.690	6.068	6.461	6.677	6.892	7.108	7.323	7.538
53	0.000	0.143	0.287	0.433	0.579	0.725	0.870	1.015	1.162	1.309	1.457	1.607	1.762	1.925	2.084	2.249	2.441	2.628	2.805	2.977	3.151	3.328	3.507	3.749	4.111	4.499	4.892	5.301	5.682	6.049	6.432	6.647	6.861	7.075	7.290	7.504
54	0.000	0.146	0.295	0.445	0.597	0.748	0.897	1.047	1.196	1.349	1.501	1.654	1.809	1.971	2.141	2.307	2.478	2.681	2.878	3.063	3.243	3.424	3.609	3.797	4.055	4.437	4.827	5.233	5.655	6.043	6.415	6.629	6.843	7.057	7.271	7.485
55	0.000	0.150	0.302	0.457	0.613	0.771	0.926	1.080	1.234	1.388	1.547	1.704	1.862	2.023	2.190	2.368	2.541	2.720	2.934	3.142	3.336	3.523	3.713	3.906	4.102	4.376	4.761	5.164	5.583	6.018	6.414	6.628	6.842	7.056	7.269	7.483
56	0.000	0.153	0.309	0.469	0.630	0.793	0.951	1.110	1.268	1.427	1.585	1.749	1.910	2.074	2.240	2.415	2.602	2.783	2.971	3.201	3.423	3.629	3.826	4.027	4.231	4.438	4.683	5.066	5.466	5.881	6.311	6.522	6.732	6.943	7.153	7.363
57	0.000	0.154	0.316	0.480	0.646	0.814	0.977	1.140	1.303	1.465	1.628	1.791	1.960	2.126	2.295	2.467	2.649	2.845	3.033	3.230	3.476	3.711	3.928	4.135	4.345	4.559	4.741	5.008	5.389	5.793	6.213	6.420	6.628	6.835	7.042	7.249
58	0.000	0.154	0.319	0.490	0.661	0.834	1.001	1.168	1.335	1.502	1.669	1.836	2.003	2.177	2.348	2.522	2.699	2.888	3.094	3.290	3.496	3.758	4.008	4.236	4.452	4.673	4.860	5.047	5.321	5.714	6.122	6.326	6.530	6.734	6.938	7.143
59	0.000	0.149	0.318	0.495	0.675	0.854	1.024	1.195	1.366	1.536	1.707	1.878	2.049	2.219	2.399	2.574	2.753	2.936	3.133	3.348	3.552	3.768	4.048	4.313	4.554	4.780	4.971	5.163	5.354	5.645	6.041	6.242	6.443	6.645	6.846	7.047
60	0.000	0.148	0.307	0.492	0.682	0.872	1.046	1.220	1.395	1.569	1.743	1.918	2.092	2.267	2.441	2.626	2.806	2.989	3.178	3.382	3.608	3.820	4.046	4.346	4.628	4.882	5.077	5.272	5.468	5.663	5.972	6.171	6.370	6.569	6.768	6.967
61	0.000	0.149	0.307	0.476	0.678	0.881	1.057	1.233	1.410	1.586	1.762	1.938	2.114	2.290	2.467	2.643	2.832	3.015	3.202	3.395	3.607	3.845	4.067	4.304	4.629	4.933	5.131	5.328	5.525	5.723	5.920	6.117	6.315	6.512	6.709	6.907
62	0.000	0.154	0.308	0.475	0.656	0.877	1.052	1.227	1.402	1.578	1.753	1.928	2.104	2.279	2.454	2.630	2.805	2.997	3.181	3.371	3.569	3.791	4.048	4.283	4.538	4.908	5.105	5.301	5.497	5.694	5.890	6.086	6.283	6.479	6.675	6.872
63	0.000	0.159	0.318	0.477	0.655	0.848	1.018	1.187	1.357	1.527	1.696	1.866	2.035	2.205	2.375	2.544	2.714	2.883	3.079	3.263	3.455	3.660	3.902	4.196	4.457	4.749	4.939	5.129	5.319	5.509	5.699	5.889	6.079	6.269	6.459	6.649
64	0.000	0.164	0.328	0.493	0.657	0.846	1.015	1.184	1.353	1.523	1.692	1.861	2.030	2.199	2.368	2.538	2.707	2.876	3.045	3.249	3.437	3.636	3.852	4.115	4.448	4.737	4.926	5.116	5.305	5.495	5.684	5.874	6.063	6.253	6.442	6.632
65	0.000	0.170	0.339	0.509	0.679	0.849	1.018	1.188	1.358	1.528	1.697	1.867	2.037	2.206	2.376	2.546	2.716	2.885	3.055	3.225	3.441	3.635	3.844	4.074	4.368	4.752	4.942	5.132	5.323	5.513	5.703	5.893	6.083	6.273	6.463	6.653
66	0.000	0.165	0.331	0.496	0.662	0.827	0.993	1.158	1.324	1.489	1.654	1.820	1.985	2.151	2.316	2.482	2.647	2.812	2.978	3.143	3.309	3.553	3.760	3.990	4.258	4.632	4.818	5.003	5.188	5.374	5.559	5.744	5.929	6.115	6.300	6.485
67	0.000	0.161	0.323	0.484	0.646	0.807	0.968	1.130	1.291	1.452	1.614	1.775	1.937	2.098	2.259	2.421	2.582	2.743	2.905	3.066	3.228	3.389	3.683	3.914	4.185	4.519	4.699	4.880	5.063	5.242	5.422	5.603	5.784	5.965	6.145	6.326
68	0.000	0.160	0.320	0.480	0.639	0.799	0.959	1.119	1.279	1.439	1.599	1.758	1.918	2.078	2.238	2.398	2.558	2.718	2.877	3.037	3.197	3.357	3.517	3.884	4.148	4.476	4.655	4.834	5.013	5.192	5.371	5.550	5.729	5.908	6.087	6.267
69	0.000	0.160	0.320	0.479	0.639	0.799	0.959	1.119	1.279	1.438	1.598	1.758	1.918	2.078	2.237	2.397	2.557	2.717	2.877	3.036	3.196	3.356	3.516	3.676	4.162	4.475	4.654	4.833	5.012	5.191	5.370	5.549	5.728	5.907	6.086	6.265
70	0.000	0.162	0.324	0.486	0.648	0.810	0.972	1.134	1.296	1.458	1.620	1.782	1.944	2.106	2.268	2.429	2.591	2.753	2.915	3.077	3.239	3.401	3.563	3.725	3.887	4.535	4.716	4.898	5.079	5.261	5.442	5.623	5.805	5.986	6.168	6.349
71	0.000	0.157	0.314	0.470	0.627	0.784	0.941	1.098	1.255	1.411	1.568	1.725	1.882	2.039	2.195	2.352	2.509	2.666	2.823	2.979	3.136	3.293	3.450	3.607	3.764	4.391	4.566	4.742	4.918	5.093	5.269	5.445	5.620	5.796	5.972	6.147
72	0.000	0.152	0.303	0.455	0.606	0.758	0.910	1.061	1.213	1.364	1.516	1.667	1.819	1.971	2.122	2.274	2.425	2.577	2.729	2.880	3.032	3.183	3.335	3.487	3.638	4.245	4.414	4.584	4.754	4.924	5.093	5.263	5.433	5.603	5.773	5.942
73	0.000	0.146	0.293	0.439	0.585	0.732	0.878	1.024	1.170	1.317	1.463	1.609	1.756	1.902	2.048	2.195	2.341	2.487	2.634	2.780	2.926	3.073	3.219	3.365	3.511	4.097	4.261	4.424	4.588	4.752	4.916	5.080	5.244	5.408	5.572	5.735
74	0.000	0.141	0.282	0.423	0.564	0.705	0.846	0.987	1.128	1.269	1.410	1.551	1.692	1.833	1.974	2.115	2.256	2.397	2.538	2.679	2.820	2.961	3.102	3.243	3.384	3.948	4.106	4.264	4.422	4.579	4.737	4.895	5.053	5.211	5.369	5.527
75	0.000	0.136	0.271	0.407	0.543	0.678	0.814	0.950	1.085	1.221	1.356	1.492	1.628	1.763	1.899	2.035	2.170	2.306	2.442	2.577	2.713	2.849	2.984	3.120	3.255	3.798	3.950	4.102	4.254	4.406	4.558	4.710	4.862	5.013	5.165	5.317
76	0.000	0.130	0.261	0.391	0.521	0.651	0.782	0.912	1.042	1.172	1.303	1.433	1.563	1.694	1.824	1.954	2.084	2.215	2.345	2.475	2.605	2.736	2.866	2.996	3.127	3.648	3.794	3.939	4.085	4.231	4.377	4.523	4.669	4.815	4.961	5.107
77	0.000	0.125	0.250	0.375	0.500	0.625	0.749	0.874	0.999	1.124	1.249	1.374	1.499	1.624	1.749	1.874	1.998	2.123	2.248	2.373	2.498	2.623	2.748	2.873	2.998	3.497	3.637	3.777	3.917	4.057	4.197	4.337	4.476	4.616	4.756	4.896
78	0.000	0.120	0.239	0.359	0.478	0.598	0.717	0.837	0.956	1.076	1.196	1.315	1.435	1.554	1.674	1.793	1.913	2.033	2.152	2.272	2.391	2.511	2.630	2.750	2.869	3.348	3.482	3.616	3.749	3.883	4.017	4.151	4.285	4.419	4.553	4.687
79	0.000	0.114	0.229	0.343	0.457	0.571	0.686	0.800	0.914	1.029	1.143	1.257	1.372	1.486	1.600	1.714	1.829	1.943	2.057	2.172	2.286	2.400	2.515	2.629	2.743	3.200	3.328	3.456	3.584	3.712	3.840	3.968	4.096	4.224	4.352	4.481
80	0.000	0.109	0.218	0.327	0.437	0.546	0.655	0.764	0.873	0.982	1.091	1.200	1.310	1.419	1.528	1.637	1.746	1.855	1.964	2.073	2.183	2.292	2.401	2.510	2.619	3.056	3.178	3.300	3.422	3.545	3.667	3.789	3.911	4.033	4.156	4.278

Montana PERS
Service Purchase Factors
By Age and Service at Purchase
Benefit & Elig

Age	75
Service	20

Age Nearest Birthday

Completed Years of Service

2.712904272	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35
51	0.000	0.135	0.271	0.407	0.543	0.680	0.817	0.955	1.093	1.232	1.376	1.525	1.672	1.823	1.995	2.164	2.326	2.484	2.644	2.806	2.970	3.185	3.508	3.855	4.225	4.620	4.983	5.339	5.711	6.098	6.501	6.718	6.934	7.151	7.368	7.585
52	0.000	0.139	0.280	0.420	0.561	0.702	0.842	0.985	1.127	1.270	1.415	1.564	1.720	1.873	2.031	2.212	2.390	2.559	2.724	2.891	3.060	3.232	3.460	3.802	4.168	4.560	4.956	5.328	5.690	6.068	6.461	6.677	6.892	7.108	7.323	7.538
53	0.000	0.143	0.287	0.433	0.579	0.725	0.870	1.015	1.162	1.309	1.457	1.607	1.762	1.925	2.084	2.249	2.441	2.628	2.805	2.977	3.151	3.328	3.507	3.749	4.111	4.499	4.892	5.301	5.682	6.049	6.432	6.647	6.861	7.075	7.290	7.504
54	0.000	0.146	0.295	0.445	0.597	0.748	0.897	1.047	1.196	1.349	1.501	1.654	1.809	1.973	2.141	2.307	2.478	2.681	2.878	3.063	3.243	3.424	3.609	3.797	4.055	4.437	4.827	5.233	5.655	6.043	6.415	6.629	6.843	7.057	7.271	7.485
55	0.000	0.150	0.302	0.457	0.613	0.771	0.926	1.080	1.234	1.388	1.547	1.704	1.862	2.023	2.190	2.368	2.541	2.720	2.934	3.142	3.336	3.523	3.713	3.906	4.102	4.376	4.761	5.164	5.583	6.018	6.414	6.628	6.842	7.056	7.269	7.483
56	0.000	0.153	0.309	0.469	0.630	0.793	0.951	1.110	1.268	1.427	1.585	1.749	1.910	2.074	2.240	2.415	2.602	2.783	2.971	3.201	3.423	3.629	3.826	4.027	4.231	4.438	4.683	5.066	5.466	5.881	6.311	6.522	6.732	6.943	7.153	7.363
57	0.000	0.154	0.316	0.480	0.646	0.814	0.977	1.140	1.303	1.465	1.628	1.791	1.960	2.126	2.295	2.467	2.649	2.845	3.033	3.230	3.476	3.711	3.928	4.135	4.345	4.559	4.741	5.001	5.389	5.793	6.213	6.420	6.628	6.835	7.042	7.249
58	0.000	0.154	0.319	0.490	0.661	0.834	1.001	1.168	1.335	1.502	1.669	1.836	2.003	2.177	2.348	2.522	2.699	2.888	3.094	3.290	3.496	3.758	4.008	4.236	4.452	4.673	4.860	5.047	5.321	5.714	6.122	6.326	6.530	6.734	6.938	7.143
59	0.000	0.149	0.318	0.495	0.675	0.854	1.024	1.195	1.366	1.536	1.707	1.878	2.049	2.219	2.399	2.574	2.753	2.936	3.133	3.348	3.552	3.768	4.048	4.313	4.554	4.780	4.971	5.161	5.354	5.645	6.041	6.242	6.443	6.645	6.846	7.047
60	0.000	0.148	0.307	0.492	0.682	0.872	1.046	1.220	1.395	1.569	1.743	1.918	2.092	2.267	2.441	2.626	2.806	2.989	3.178	3.382	3.608	3.820	4.046	4.346	4.628	4.882	5.077	5.272	5.468	5.663	5.972	6.171	6.370	6.569	6.768	6.967
61	0.000	0.149	0.307	0.476	0.678	0.881	1.057	1.233	1.410	1.586	1.762	1.938	2.114	2.290	2.467	2.643	2.832	3.015	3.202	3.395	3.607	3.845	4.067	4.304	4.629	4.933	5.131	5.328	5.525	5.723	5.920	6.117	6.315	6.512	6.709	6.907
62	0.000	0.154	0.308	0.475	0.656	0.877	1.052	1.227	1.402	1.578	1.753	1.928	2.104	2.279	2.454	2.630	2.805	2.997	3.181	3.371	3.569	3.791	4.048	4.283	4.538	4.908	5.105	5.301	5.497	5.694	5.890	6.086	6.283	6.479	6.675	6.872
63	0.000	0.159	0.318	0.477	0.655	0.848	1.018	1.187	1.357	1.527	1.696	1.866	2.035	2.205	2.375	2.544	2.714	2.883	3.079	3.263	3.455	3.660	3.902	4.196	4.457	4.749	4.939	5.129	5.319	5.509	5.699	5.889	6.079	6.269	6.459	6.649
64	0.000	0.164	0.328	0.493	0.657	0.846	1.015	1.184	1.353	1.523	1.692	1.861	2.030	2.199	2.368	2.538	2.707	2.876	3.045	3.249	3.437	3.636	3.852	4.115	4.448	4.737	4.926	5.136	5.305	5.495	5.684	5.874	6.063	6.253	6.442	6.632
65	0.000	0.170	0.339	0.509	0.679	0.849	1.018	1.188	1.358	1.528	1.697	1.867	2.037	2.206	2.376	2.546	2.716	2.885	3.055	3.225	3.441	3.635	3.844	4.074	4.368	4.752	4.942	5.132	5.323	5.513	5.703	5.893	6.083	6.273	6.463	6.653
66	0.000	0.165	0.331	0.496	0.662	0.827	0.993	1.158	1.324	1.489	1.654	1.820	1.985	2.151	2.316	2.482	2.647	2.812	2.978	3.143	3.309	3.553	3.760	3.990	4.258	4.632	4.818	5.003	5.188	5.374	5.559	5.744	5.929	6.115	6.300	6.485
67	0.000	0.161	0.323	0.484	0.646	0.807	0.968	1.130	1.291	1.452	1.614	1.775	1.937	2.098	2.259	2.421	2.582	2.743	2.905	3.066	3.228	3.389	3.683	3.914	4.185	4.519	4.699	4.880	5.061	5.242	5.422	5.603	5.784	5.965	6.145	6.326
68	0.000	0.160	0.320	0.480	0.639	0.799	0.959	1.119	1.279	1.439	1.599	1.758	1.918	2.078	2.238	2.398	2.558	2.718	2.877	3.037	3.197	3.357	3.517	3.884	4.148	4.476	4.655	4.834	5.013	5.192	5.371	5.550	5.729	5.908	6.087	6.267
69	0.000	0.160	0.320	0.479	0.639	0.799	0.959	1.119	1.279	1.438	1.598	1.758	1.918	2.078	2.237	2.397	2.557	2.717	2.877	3.036	3.196	3.356	3.516	3.676	4.162	4.475	4.654	4.833	5.012	5.191	5.370	5.549	5.728	5.907	6.086	6.265
70	0.000	0.162	0.324	0.486	0.648	0.810	0.972	1.134	1.296	1.458	1.620	1.782	1.944	2.106	2.268	2.429	2.591	2.753	2.915	3.077	3.239	3.401	3.563	3.725	3.887	4.535	4.716	4.898	5.079	5.261	5.442	5.623	5.805	5.986	6.168	6.349
71	0.000	0.157	0.314	0.470	0.627	0.784	0.941	1.098	1.255	1.411	1.568	1.725	1.882	2.039	2.195	2.352	2.509	2.666	2.823	2.979	3.136	3.293	3.450	3.607	3.764	4.391	4.566	4.742	4.918	5.093	5.269	5.445	5.620	5.796	5.972	6.147
72	0.000	0.152	0.303	0.455	0.606	0.758	0.910	1.061	1.213	1.364	1.516	1.667	1.819	1.971	2.122	2.274	2.425	2.577	2.729	2.880	3.032	3.183	3.335	3.487	3.638	4.245	4.414	4.584	4.754	4.924	5.093	5.263	5.433	5.603	5.773	5.942
73	0.000	0.146	0.293	0.439	0.585	0.732	0.878	1.024	1.170	1.317	1.463	1.609	1.756	1.902	2.048	2.195	2.341	2.487	2.634	2.780	2.926	3.073	3.219	3.365	3.511	4.097	4.261	4.424	4.588	4.752	4.916	5.080	5.244	5.408	5.572	5.735
74	0.000	0.141	0.282	0.423	0.564	0.705	0.846	0.987	1.128	1.269	1.410	1.551	1.692	1.833	1.974	2.115	2.256	2.397	2.538	2.679	2.820	2.961	3.102	3.243	3.384	3.948	4.106	4.264	4.422	4.579	4.737	4.895	5.053	5.211	5.369	5.527
75	0.000	0.136	0.271	0.407	0.543	0.678	0.814	0.950	1.085	1.221	1.356	1.492	1.628	1.763	1.899	2.035	2.170	2.306	2.442	2.577	2.713	2.849	2.984	3.120	3.255	3.798	3.950	4.102	4.254	4.406	4.558	4.710	4.862	5.013	5.165	5.317
76	0.000	0.130	0.261	0.391	0.521	0.651	0.782	0.912	1.042	1.172	1.303	1.433	1.563	1.694	1.824	1.954	2.084	2.215	2.345	2.475	2.605	2.736	2.866	2.996	3.127	3.648	3.794	3.939	4.085	4.231	4.377	4.523	4.669	4.815	4.961	5.107
77	0.000	0.125	0.250	0.375	0.500	0.625	0.749	0.874	0.999	1.124	1.249	1.374	1.499	1.624	1.749	1.874	1.998	2.123	2.248	2.373	2.498	2.623	2.748	2.873	2.998	3.497	3.637	3.777	3.917	4.057	4.197	4.337	4.476	4.616	4.756	4.896
78	0.000	0.120	0.239	0.359	0.478	0.598	0.717	0.837	0.956	1.076	1.196	1.315	1.435	1.554	1.674	1.793	1.913	2.033	2.152	2.272	2.391	2.511	2.630	2.750	2.869	3.348	3.482	3.616	3.749	3.883	4.017	4.151	4.285	4.419	4.553	4.687
79	0.000	0.114	0.229	0.343	0.457	0.571	0.686	0.800	0.914	1.029	1.143	1.257	1.372	1.486	1.600	1.714	1.829	1.943	2.057	2.172	2.286	2.400	2.515	2.629	2.743	3.200	3.328	3.456	3.584	3.712	3.840	3.968	4.096	4.224	4.352	4.481
80	0.000	0.109	0.218	0.327	0.437	0.546	0.655	0.764	0.873	0.982	1.091	1.200	1.310	1.419	1.528	1.637	1.746	1.855	1.964	2.073	2.183	2.292	2.401	2.510	2.619	3.056	3.178	3.300	3.422	3.545	3.667	3.789	3.911	4.033	4.156	4.278

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COUNSEL FOR DEFENDANTS

RECEIVED
JUN 16 2014
BROWNING, KALECZYC, BERRY & HOVEN, PC

MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY

ASSOCIATION OF MONTANA RETIRED PUBLIC EMPLOYEES, RUSSELL WRIGG, MARLYS HURLBERT, CAROLE CAREY, I. EDWARD SONDENO, Plaintiffs, v. STATE OF MONTANA, MONTANA PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION, PUBLIC EMPLOYEE RETIREMENT BOARD, GOVERNOR STEVE BULLOCK, in his official capacity, Defendants.	Cause No. CDV-2013-788 **DEFENDANTS' RESPONSE TO PLAINTIFFS' FIRST SET OF DISCOVERY REQUESTS**

REQUEST FOR ADMISSION NO. 1: Please admit that HB 454 of the 2013 Legislative Session as originally introduced did not reduce the Guaranteed Annual Benefit Adjustment ("GABA").

RESPONSE: Admit.

EXHIBIT
23

RESPONSE: Admit that Mont. Code Ann. § 19-3-2106 states "[e]mployees choosing the defined contribution plan or the university system retirement program pursuant to this part do not have a contract right to the specific terms and conditions specified in statute on the date the employee's choice becomes effective."

REQUEST FOR ADMISSION NO. 26: Please admit the Montana Legislature has not limited the contract rights of members of the defined benefit plan as it has for others in Mont. Code Ann. § 19-3-2106.

RESPONSE: Objection, the phrase "limited the contract rights" is vague and ambiguous. Without waving the objection, deny.

REQUEST FOR ADMISSION NO. 27: Please admit that the Legislature could have enacted a similar limited contract right as it did in Mont. Code Ann. § 19-3-2106 applicable to the members of the defined benefit PERS plan, but has not done so.

RESPONSE: Objection, vague and ambiguous and calls for speculation. Without waving the objection, deny.

REQUEST FOR ADMISSION NO. 28: Please admit the information in the Affidavit of I. Edward Sondeno, attached as Exhibit B, is true, accurate, and correct.

RESPONSE: The State admits the facts set forth in paragraphs 1, 2, 3, 4, 5, 7 and 10 of the Affidavit.

As to paragraph 6 of the Affidavit, the State has insufficient information to determine what "became obvious" to Mr. Sondeno, and therefore denies the same. The State admits the remainder of paragraph 6 of the Affidavit.

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REQUEST FOR ADMISSION NO. 1: Please admit that HB 454 of the 2013 Legislative Session as originally introduced did not reduce the Guaranteed Annual Benefit Adjustment ("GABA").

RESPONSE: Admit.

REQUEST FOR ADMISSION NO. 12: Please admit that House Bill 632 did not pass the 2011 Legislature.

RESPONSE: Admit.

REQUEST FOR ADMISSION NO. 13: Please admit that House Bill 382 did not pass the 2013 Legislature.

RESPONSE: Admit.

REQUEST FOR ADMISSION NO. 14: Please admit that at various times from 2001 to 2013 the Montana Public Employee Retirement Administration ("MPERA") and its employees through retirement trainings, helplines, benefit estimates, employee handbooks, among other things, informed PERS members and retirees that were employed prior to June 30, 2007, that they would receive a 3% GABA.

RESPONSE: Admit.

REQUEST FOR ADMISSION NO. 15: Please admit that at various times from 2001 to 2013 the Montana Public Employee Retirement Board ("PERB") and its employees through retirement trainings, helplines, benefit estimates, employee handbooks, among other things, informed PERS members and retirees that were employed prior to June 30, 2007, that they would receive a 3% GABA.

RESPONSE: Admit, with qualifications. PERB does not directly put on retirement trainings, etc., but MPERA has informed members they would receive a 3% adjustment on behalf of PERB.

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ASSOCIATION OF MONTANA RETIRED PUBLIC EMPLOYEES, RUSSELL WRIGG, MARLYS HURLBERT, CAROLE CAREY, I. EDWARD SONDENO, Plaintiffs, v. STATE OF MONTANA, MONTANA PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION, PUBLIC EMPLOYEE RETIREMENT BOARD, GOVERNOR STEVE BULLOCK, in his official capacity, Defendants.	Cause No. CDV-2013-788 **DEFENDANTS' RESPONSE TO PLAINTIFFS' FIRST SET OF DISCOVERY REQUESTS**

REQUEST FOR ADMISSION NO. 1: Please admit that HB 454 of the 2013 Legislative Session as originally introduced did not reduce the Guaranteed Annual Benefit Adjustment ("GABA").

RESPONSE: Admit.

EXHIBIT
25

ANSWER: Objection, this interrogatory is overly broad, vague, and unduly burdensome because it does not identify a subject that may have considered alternatives (alternatives considered by whom?) and does not contain a time period. Additionally why certain alternatives were not implemented, when ascertainable, is a matter of legislative record, as accessible to Plaintiffs as to Defendants, and are available to Plaintiffs pursuant to Mont. R. Civ. P. 33(d).

Without waiving the objection, potentially responsive bills and measures proposed in 2011 and 2013 offering alternatives include:

HB 383 (2013) and HB 632 (2011); HB 338 (2013); SB 333 (2013); HB 122 (2011).

REQUEST FOR PRODUCTION NO. 15: Please produce all training materials, emails, presentation outlines and documents of any kind including electronically stored information, where you represent that any state, county, or local government employee will be eligible to receive a 3% GABA.

RESPONSE: *See* MPERA documents referencing the 3% GABA on the attached CD and attached VHS Cassette. Emails are generally only retained by MPERA for 30 days. Most emails referencing a 3% GABA would be significantly older. Those that were located after a reasonable search was conducted are included on the CD.

REQUEST FOR PRODUCTION NO. 16: Please produce all records, and documents of any kind where you discuss in any manner a state, county, or local government employee being eligible to receive a 3% GABA.

RESPONSE: See documents on the attached CD and attached VHS Cassette.

PERA DIRECTIONS

For Active Members, Employers and Legislators

Montana Public Employee Retirement Administration (MPERA) January 2007

2007 Legislative Session What May Be In Store?

Every legislative session, numerous bills are introduced (or rumored to be introduced) that affect the retirement systems administered by the Montana Public Employees' Retirement Board (Board) and the Montana Public Employee Retirement Administration (MPERA). This 2007 Legislative Session will be no different. The purpose of this newsletter is to inform our members and employers of the bills proposed by the Board and some of the retirement bills proposed by other parties.

Circumstances change frequently and rapidly throughout the course of any legislative session. This means that it's never over until it's over. Current proposed bills may or may not become law. Regardless, the Board and MPERA will monitor and assess all proposed bills affecting retirement and work to safeguard and maintain or improve your retirement plans and futures.

Anyone interested in tracking retirement-related bills or taking an active role advocating for retirement issues may want to visit http://laws.leg.mt.gov/pls/laws07/law0203w$.startup. ■

YOUR RETIREMENT BENEFITS ARE A PROTECTED CONTRACT RIGHT. PROPOSED BENEFIT CHANGES WILL BE FOR NEW MEMBERS ONLY.

Inside this issue . . .

2007 Legislative Session - What May Be In Store? 1	*Retirement Bills Offer Funding Options* 3
Proposed Bills Impact - Public Employers 2	*Further Information* 3
Proposed Bills Impact - Defined Benefit Members 2	*Defined Contribution Retirement Plan Loan - LC0286* ... 4

[Date]

[First name Mi Last name]
[Address 1]
[Address 2]
[Address 3]
[Address 4]

RE: [Retirement Number]

Option # 1

Dear [First name Mi Last name:]

Your net payment in the amount of [$Warrant Amount] is being sent directly from the Department of Administration. This payment represents your retirement benefit for [Benefit Date,] which includes any retroactive adjustments and authorized tax or insurance deductions. Your effective date is [Retirement Date.] Your gross monthly benefit is [Gross Benefit.]

You will receive your gross monthly retirement benefit for your lifetime. This benefit will increase by 3% each January after you have been retired for one year, in accordance with the Guaranteed Annual Benefit Adjustment (GABA). Authorized deductions for insurance or taxes will decrease this payment amount. Upon your passing, any remaining balance of your accumulated contributions will be paid to your beneficiary in a lump sum.

Your retirement benefit was calculated using the benefit structure and actuarial factors currently in effect. Should these factors change as a result of a pending lawsuit or other action, your retirement benefit might change accordingly.

Before returning to PERS-covered employment there must be a 30-day break in service and you must accept your first retirement benefit.

If you return to PERS-covered employment, your employer **must** report the hours worked and your gross wages earned to MPERA **monthly.** You may return to PERS-covered employment for up to **960 hours** in any calendar year. If you exceed the 960 hours, your monthly benefit will be **reduced** $1 for each $1 earned. If you are 65 years of age or older, you are subject to **either** the 960 hour limitation **or** you may earn (in any calendar year) an amount that, when added to your annual retirement benefit, does not exceed your annual highest average compensation (adjusted each January for inflation) whichever provides the greater earnings. If you are age 70 1/2, there are no earnings limitations.

If we can be of assistance, contact our office. Please use your retirement number, referenced above, on any correspondence regarding your retirement benefit. **The benefits are disbursed the last working day of each month.**

[MPERA 1 Name]
[MPERA 1 Dept.]
[MPERA 1 Phone]

[MPERA 2 Name]
[MPERA 2 Dept.]
[MPERA 2 Phone]

[Date]

[First name Mi Last name]
[Address 1]
[Address 2]
[Address 3]
[Address 4]

RE: [Retirement Number]

Option # 2

Dear [First name Mi Last name:]

Your net payment in the amount of [$Warrant Amount] is being sent directly from the Department of Administration. This payment represents your retirement benefit for [Benefit Date,] which includes any retroactive adjustments and authorized tax or insurance deductions. Your effective date is [Retirement Date.] Your gross monthly benefit is [Gross Benefit.]

You will receive your gross monthly retirement benefit for your lifetime. This benefit will increase by 3% each January after you have been retired for one year, in accordance with the Guaranteed Annual Benefit Adjustment (GABA). Authorized deductions for insurance or taxes will decrease this payment amount. Upon your passing, the same monthly payment will continue to your contingent annuitant for as long as he or she lives. You may be able to revert to an Option #1 payment if (a) your contingent annuitant predeceases you or (b) you and your contingent annuitant divorce. Contact our office for the proper paperwork. This change must occur within 18 months of the event.

Your retirement benefit was calculated using the benefit structure and actuarial factors currently in effect. Should these factors change as a result of a pending lawsuit or other action, your retirement benefit might change accordingly.

Before returning to PERS-covered employment there must be a 30-day break in service and you must accept your first retirement benefit.

If you return to PERS-covered employment, you **must** report the hours worked and your gross wages earned to MPERA **monthly.** You may return to PERS-covered employment for up to **960 hours** in any calendar year. If you exceed the 960 hours, your monthly benefit will be **reduced** $1 for each $1 earned. If you are 65 years of age or older, you are subject to **either** the 960 hour limitation **or** you may earn (in any calendar year) an amount that, when added to your annual retirement benefit, does not exceed your annual highest average compensation (adjusted each January for inflation) whichever provides the greater earnings. If you are age 70 1/2, or work for a non-PERS employer, there are no earnings limitations.

If we can be of assistance, contact our office. Please use your retirement number, referenced above, on any correspondence regarding your retirement benefit. **The benefits are disbursed the last working day of each month.**

[MPERA 1 Name]
[MPERA 1 Dept.]
[MPERA 1 Phone]

[MPERA 2 Name]
[MPERA 2 Dept.]
[MPERA 2 Phone]

[Date]

[First name Mi Last name]
[Address 1]
[Address 2]
[Address 3]
[Address 4]

RE: [Retirement Number]

Option # 3

Dear [First name Mi Last name:]

Your net payment in the amount of [$Warrant Amount] is being sent directly from the Department of Administration. This payment represents your retirement benefit for [Benefit Date,] which includes any retroactive adjustments and authorized tax or insurance deductions. Your effective date is [Retirement Date.] Your gross monthly benefit is [Gross Benefit.]

You will receive your gross monthly retirement benefit for your lifetime. This benefit will increase by 3% each January after you have been retired for one year, in accordance with the Guaranteed Annual Benefit Adjustment (GABA). Authorized deductions for insurance or taxes will decrease this payment amount. Upon your passing, one-half (1/2) of this monthly benefit will continue to your contingent annuitant (beneficiary) for as long as he or she lives. You may be able to revert to an option #1 payment if (a) your contingent annuitant predeceases you or (b) you and your contingent annuitant divorce. Contact our office for the proper paperwork. This change must occur within 18 months of the event.

Your retirement benefit was calculated using the benefit structure and actuarial factors currently in effect. Should these factors change as a result of a pending lawsuit or other action, your retirement benefit might change accordingly.

Before returning to PERS-covered employment there must be a 30-day break in service and you must accept your first retirement benefit.

If you return to PERS-covered employment, you **must** report the hours worked and your gross wages earned to MPERA **monthly.** You may return to PERS-covered employment for up to **960 hours** in any calendar year. If you exceed the 960 hours, your monthly benefit will be **reduced** $1 for each $1 earned. If you are 65 years of age or older, you are subject to **either** the 960 hour limitation **or** you may earn (in any calendar year) an amount that, when added to your annual retirement benefit, does not exceed your annual highest average compensation (adjusted each January for inflation) whichever provides the greater earnings. If you are age 70 1/2, or work for a non-PERS employer, there are no earnings limitations.

If we can be of assistance, contact our office. Please use your retirement number, referenced above, on any correspondence regarding your retirement benefit. **The benefits are disbursed the last working day of each month.**

[MPERA 1 Name]
[MPERA 1 Dept.]
[MPERA 1 Phone]

[MPERA 2 Name]
[MPERA 2 Dept.]
[MPERA 2 Phone]

THE CHOICE IS YOURS...
THE TIME IS NOW!

EMPLOYEE WORKSHOP
Montana Public Employees' Retirement System

1

Montana Public Employees' Retirement Board

- 7 members appointed by the Governor
- Authority to provide retirement plans to public employees across the State
- Trustees and fiduciaries

2

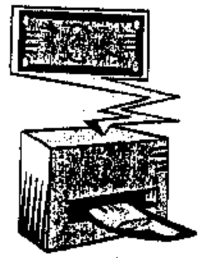
Montana Public Employee Retirement Administration

- Staff to the Montana Public Employees' Retirement Board
- Day-to-day administration of eight separate and distinct retirement systems:
  - Municipal Police Officers
  - Game Wardens' & Peace Officers
  - Sheriffs
  - Judges
  - Highway Patrol Officers
  - Firefighters'
  - Volunteer Firefighters'
- Public Employees' Retirement System (PERS)

3

Defined Benefit Retirement Plan Guarantees

- Guaranteed Lifetime Retirement Income
- GABA



13

Defined Benefit Retirement Plan Formula

Benefit Based on a Formula:
Factor (1.7857% or 2.0%) X Highest Average Compensation X Service Credit

14

Membership Service

- Determine *vesting*
- *Vesting* entitles members to lifetime monthly benefit (when eligible)
- Vested at 5 years of *membership service*
- 1 month of *membership service* earned for any hours reported during any given month

15

THE CHOICE IS YOURS... THE TIME IS NOW!

EMPLOYEE WORKSHOP
Montana Public Employees' Retirement System

1

Montana Public Employee Retirement Administration

- Staff to the Montana Public Employees' Retirement Board
- Day-to-day administration of eight separate and distinct retirement systems:
  - Municipal Police Officers
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  - Sheriffs
  - Judges
  - Highway Patrol Officers
  - Firefighters'
  - Volunteer Firefighters'
- Public Employees' Retirement System (PERS)

2

Montana Public Employees' Retirement Board

- 7 members appointed by the Governor
- Authority to provide retirement plans to public employees across the State
- Trustees and fiduciaries

3

Defined Benefit Retirement Plan
Contributions

- Employer 6.9%*
  ([illegible] 7/1/07)
- Employee 6.9%
- Goes into the Pension Trust Fund

10

The Pension Trust Fund

- Employee and Employer contributions cover:
  - Current service & early retirement benefits
  - Current disability benefits
  - Future benefits
  - Administrative costs
  - Investment management costs
- Education Trust Fund
  - .04% of employer contributions

11

Defined Benefit Retirement Plan
Guarantees

- Guaranteed Lifetime Retirement Income
- GABA

12

MPERA "PERS Steps to Retirement"

Montana Public Employee Retirement Administration

- Staff to the Montana Public Employees' Retirement Board
- Day-to-day administration of eight separate and distinct retirement systems:
  - Municipal Police Officers
  - Game Wardens' & Peace Officers
  - Sheriffs
  - Judges
  - Highway Patrol Officers
  - Firefighters'
  - Volunteer Firefighters'
- Public Employees' Retirement System (PERS)
  - 28,213 active employees, over 18,000 retirees

MPERA:

- 1-877-275-7372 (Toll-Free)
- 444-3154 (Helena)
- Kathy Samson 444-2996
- Joel Thompson 444-0199
- www.mpera.mt.gov

Other Retirement Plans

- Individual Retirement Accounts (IRA)
  - Traditional Deductible
  - Traditional Nondeductible
  - Roth
- Section 403 (b) Tax Sheltered Annuities
- Section 457 Deferred Compensation Plans
  - How many of you are participating?

7

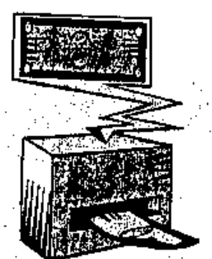
Defined Benefit Retirement Plan Contributions

- Employer [illegible]
- Employee [illegible]
- Goes into the Pension Trust Fund

8

Defined Benefit Retirement Plan Guarantees

- Guaranteed Lifetime Retirement Income
- GABA



9

MONTANA

PUBLIC EMPLOYEES' RETIREMENT SYSTEM MEMBER HANDBOOK

October 2001

PUBLIC EMPLOYEES' RETIREMENT BOARD

2. Benefit Increases

The Guaranteed Annual Benefit Adjustment (GABA) will increase your retirement benefit every year **if you are eligible.**

GABA

The GABA insures an increase of three percent over the previous year. Other events which increase your benefit will reduce the amount you get from the GABA. If the other increases are three percent or more, then you will get no increase from GABA. (§§19-2-1101 and 19-3-1605, MCA)

The GABA applies to:

- Service Retirement Benefit
- Early Retirement Benefit
- Disability Retirement Benefit
- Survivorship Benefit

It also applies to recipients, other than members, such as contingent annuitants and survivors. It **does not apply** to a person receiving the lump-sum death payment as an annuity.

Eligibility for GABA Benefits

You must meet some conditions before you will get a raise under the GABA. First, you must receive your benefit for at least 12 months. For example, if you retired on July 1, 2001, you will meet the 12-month requirement on July 1, 2002. You will receive your first GABA increase beginning with your January 1, 2003, benefit as explained on the next page.

Effective Date of GABA Benefits

The annual GABA increase for the calendar years begins with the January benefit after you have been retired for 12 months. We will apply the increase of three percent beginning with your January benefit. The monthly benefit is mailed to you or transferred electronically to your bank on the last working day of the month.

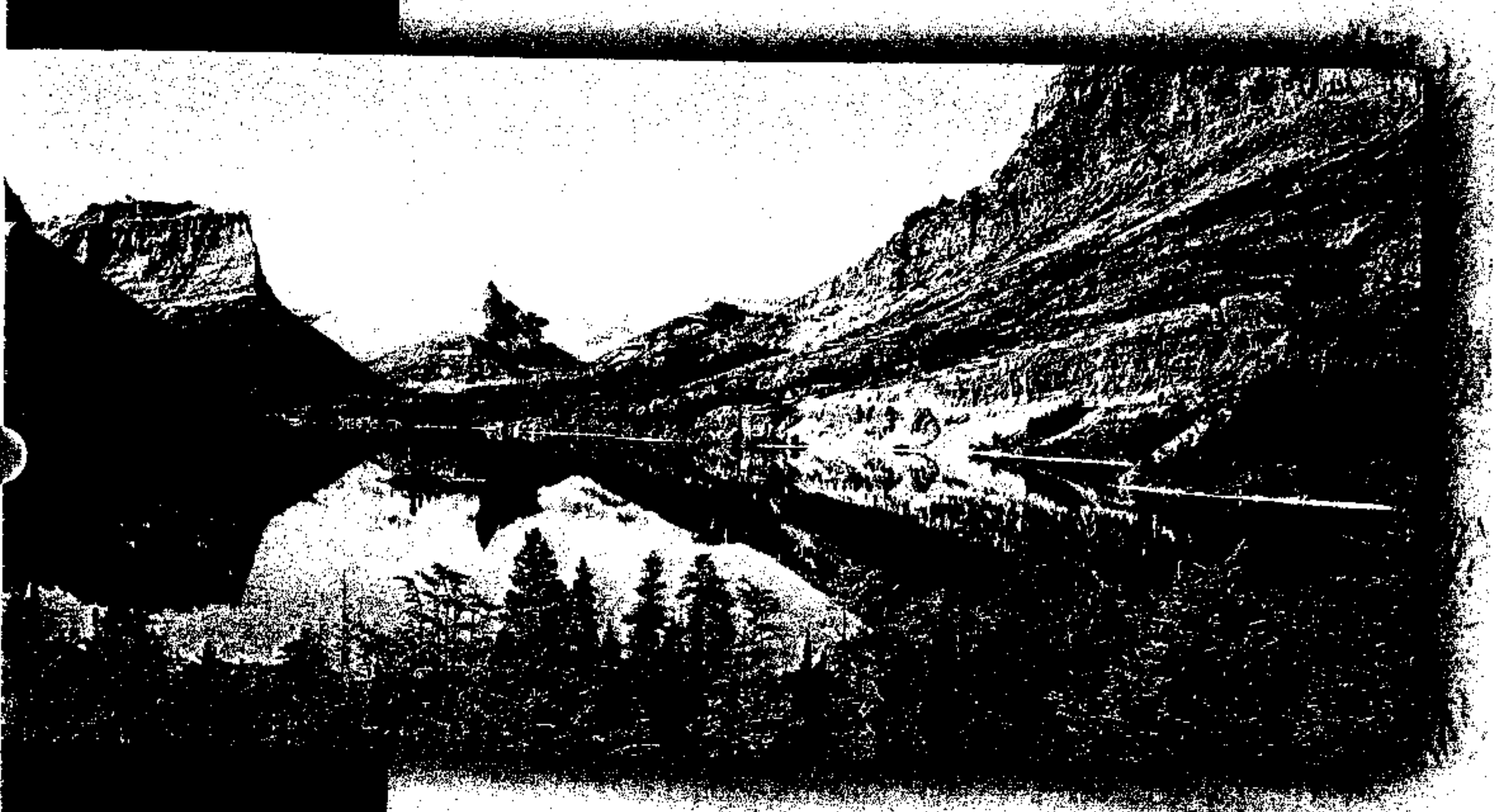
<u>NOTE:</u>
Your January benefit payment is mailed to you on the last working day of January. If you get your benefit by electronic transfer, the transfer takes place on the last working day of January. However, your bank may not add the transfer to your account until the next working day. With electronic transfer, you receive your money one or two days sooner than with a paper check through the mail.

PERA

Workbook

MONTANA

THE CHOICE IS YOURS, THE TIME IS NOW!



THE POWER TO CONTROL YOUR FUTURE

DBRP

Defined Benefit Retirement Plan

DCRP

Defined Contribution Retirement Plan

Guaranteed Annual Benefit Adjustment

Whether you retire with a service retirement, an early retirement, or a monthly purchase benefit, you are eligible for the Guaranteed Annual Benefit Adjustment (GABA). The GABA ensures a 3% increase in your benefit from the previous year. Other events that increase your benefit will reduce the GABA but your total increase will still be at least 3%.

Companion Booklet

MONTANA

THE CHOICE IS YOURS, THE TIME IS NOW!

THE POWER TO CONTROL YOUR FUTURE

DBRP...
Defined Benefit Retirement Plan

DCRP...
Defined Contribution Retirement Plan

Guaranteed Annual Benefit Adjustment (GABA)

Whether you retire with a service retirement or an early retirement benefit, you are eligible for the Guaranteed Annual Benefit Adjustment (GABA). The GABA ensures a 3% increase in your benefit checks from the previous year.

Guaranteed Annual Benefit Adjustment (GABA):

- Ensures a 3% annual increase
- Eligible after 12 months of benefits
- Effective with the following January 1st benefit
- Applies to:
  - Service retirement benefits
  - Early retirement benefits
  - Disability benefits
  - Survivorship benefits

You must receive your retirement benefit for 12 months before you become eligible for the GABA. Once eligible, you will receive your first increase in your following January payment.

For example, if a participant retired on October 1, 2001, she would become eligible for the GABA on October 1, 2002. She would receive her first GABA with her January 2003 benefit payment.

In addition to service and early retirement, GABA also applies to disability and survivor benefits. That means that if you provide a survivor benefit and you die first, your survivor will receive the GABA for life.

The GABA is **not** tied to inflation, but gives you and your family some inflation protection!

Five Year Vesting

You are vested in your Defined **Benefit** Retirement Plan when you complete five years of membership service. "Vested" means that you are guaranteed a retirement benefit when you meet the age and service requirements for service retirement or early retirement previously described. Once vested, you are also eligible for disability retirement.

If you terminate your employment before you are vested, you may receive a refund of only **your** account balance. Your account balance consists of your contributions and interest. It does not include your employer's contributions.

Remember:

Vesting in the Defined Benefit Retirement Plan means you have the right to a benefit. The benefit is a lifetime cash flow in the form of monthly retirement payments.

Defined Benefit Retirement Plan Basics

MPERA

R E T I R E M E N T   P L A N

Guaranteed Annual Benefit Adjustment (GABA)

Whether you retire with a service retirement or an early retirement benefit, you are eligible for the Guaranteed Annual Benefit Adjustment (GABA). The GABA ensures a 3% increase in your benefit from the previous year.

- Eligible after 12 months of benefits
- Effective with the following January 1st benefit
- Ensures a 3% annual increase
- Applies to:
  - Service retirement benefits
  - Early retirement benefits
  - Disability benefits
  - Survivorship benefits

The GABA is **not** tied to inflation, but gives you and your family some inflation protection!

Five Year Vesting

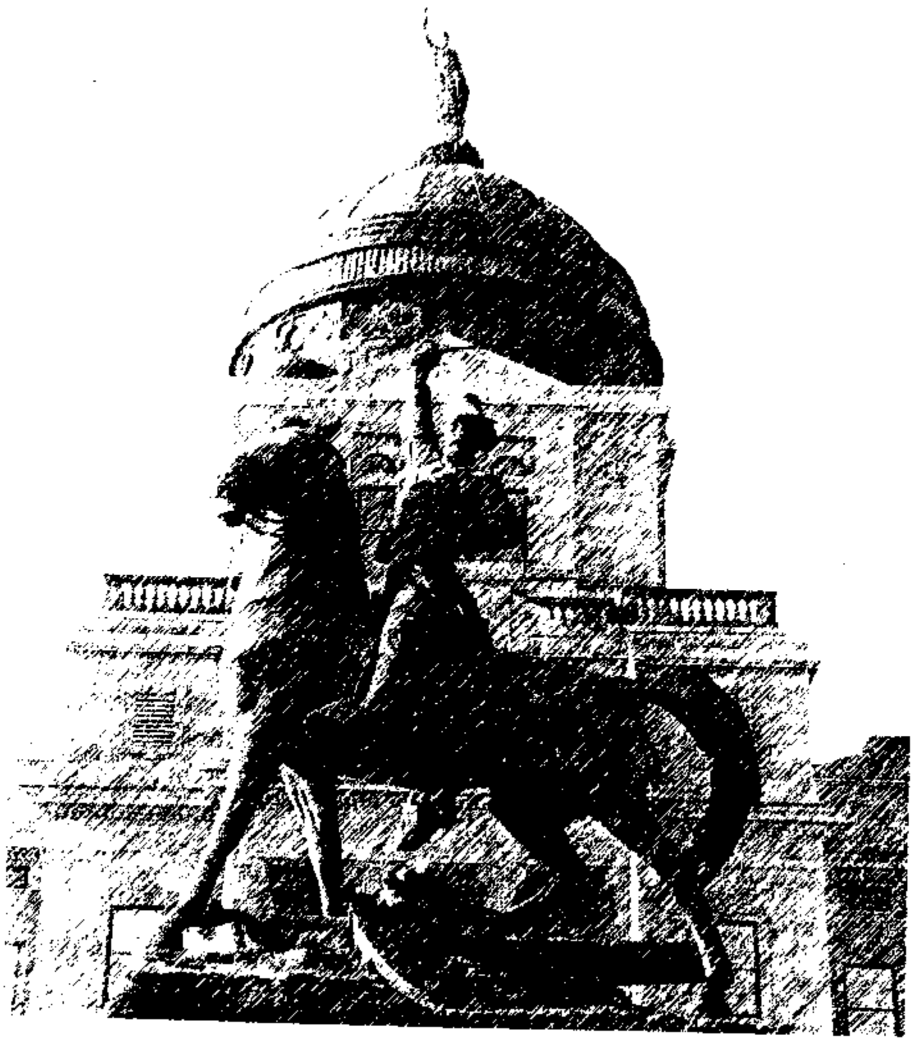
- You are vested when you complete five years of membership service.
- "Vested" means that you are guaranteed a retirement benefit when you meet the age and service requirements for early or service retirement.
- Once vested, you may also be eligible for disability retirement.

Remember:

Vesting in the Defined **Benefit** Retirement Plan means you have the right to a benefit. The benefit is a lifetime cash flow in the form of monthly retirement payments.

MONTANA

PUBLIC EMPLOYEES' RETIREMENT SYSTEM MEMBER HANDBOOK



JULY 2004
PUBLIC EMPLOYEES' RETIREMENT BOARD

2. Benefit Increases

The Guaranteed Annual Benefit Adjustment (GABA) will increase your retirement benefit every year if you are eligible.

GABA

The GABA insures an increase of three percent over the previous year. Other events which increase your benefit will reduce the amount you get from the GABA. If the other increases are three percent or more, then you will get no increase from GABA.
(§§19-2-1101 and 19-3-1605, MCA)

The GABA applies to:

- Service Retirement Benefit
- Early Retirement Benefit
- Disability Retirement Benefit
- Survivorship Benefit

It also applies to recipients, other than members, such as contingent annuitants and survivors. It **does not apply** to a person receiving the lump-sum death payment as an annuity.

Eligibility for GABA Benefits

You must meet some conditions before you will get a raise under the GABA. First, you must receive your benefit for at least 12 months. For example, if you retired on July 1, 2004, you will meet the 12-month requirement on July 1, 2005. You will receive your first GABA increase beginning with your January 1, 2006, benefit as explained on the next page.

AFFIDAVIT
OF
STEVE GARRISON

STATE OF MONTANA)
: ss.
County of Lewis and Clark)

The undersigned, under oath, does hereby swear or affirm:

1. My name is Steve Garrison. I reside at 1361 Bighorn Road, Helena, Montana.

2. I am a retired public employee and member of the Association of Montana Retired Public Employees.

3. Exhibit A is a true and correct copy of the letter I received after retiring from the State from the Montana Public Employee Retirement Administration on or about March 26, 2009 relating to the amount of my retirement benefit.

Further Affiant Sayeth Not.

DATED this 4th day of September, 2014.

By ______________________
Steve Garrison

On this 4th day of September 2014, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared Steve Garrison known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same.

In witness whereof, I have hereunto set my hand and affixed my notarial seal on the day and year first above written.

AMBER G. CARLSON
NOTARY PUBLIC for the
State of Montana
(Notarial Seal)
Residing at Helena, Montana
My Commission Expires
August 28, 2016

NOTARY PUBLIC FOR THE STATE OF MONTANA
Printed Name: Amber G Carlson
Residing at: Helena, MT
My Commission Expires Aug. 26, 2016

EXHIBIT
26

MONTANA PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION

100 North Park Avenue, Suite 200 — PO BOX 200131
HELENA MT 59620-0131
(406) 444-3154 or toll free (877) 275-7372

March 26, 2009

STEPHEN F GARRISON
6 FOREST PARK DR
CLANCY MT 59634

RE: [redacted] Option 2

Dear STEPHEN F GARRISON:

Your net payment in the amount of [redacted] is being sent directly from the Department of Administration. This payment represents your retirement benefit for Mar 2009, which includes any retroactive adjustments and authorized tax or insurance deductions. Your effective date is January 01, 2009. Your gross monthly benefit is [redacted]

You will receive your gross monthly retirement benefit for your lifetime. This benefit will increase by 3% each January after you have been retired for one year, in accordance with the Guaranteed Annual Benefit Adjustment (GABA). Authorized deductions for insurance or taxes will decrease this payment amount. Upon your passing, the same monthly payment will continue to your contingent annuitant for as long as he or she lives. You may be able to revert to an Option #1 payment if (a) your contingent annuitant predeceases you or (b) you and your contingent annuitant divorce. Contact our office for the proper paperwork. This change must occur within 18 months of the event.

Your retirement benefit was calculated using the benefit structure and actuarial factors currently in effect. Should these factors change as a result of a pending lawsuit or other action, your retirement benefit might change accordingly.

Before returning to PERS-covered employment there must be a 30-day break in service and you must accept your first retirement benefit.

If you return to PERS-covered employment, you must report the hours worked and your gross wages earned to MPERA **monthly.** You may return to PERS-covered employment for up to **960 hours** in any calendar year. If you exceed the 960 hours, your monthly benefit will be **reduced** $1 for each $1 earned. If you are 65 years of age or older, you are subject to **either** the 960 hour limitation **or** you may earn (in any calendar year) an amount that, when added to your annual retirement benefit, does not exceed your annual highest average compensation (adjusted each January for inflation) which ever provides the greater earnings. If you are age 70½, or work for a non-PERS employer, there are no earnings limitations.

If we can be of assistance, contact our office. Please use your retirement number, referenced above, on any correspondence regarding your retirement benefit. **The benefits are disbursed the last working day of each month.**

Donna Coman
Retiree Database Manager
(406) 444-5455

Terry Dalton
Retiree Database Assistant
(406) 444-5451

EXHIBIT
A

AFFIDAVIT OF
MICHAEL J. O'CONNOR

STATE OF MONTANA)
: ss.
County of Lewis and Clark)

The undersigned, under oath, does hereby swear or affirm:

1. My name is Mike O'Connor. I reside at 661 N. Warren, Helena, Montana.

2. I am a retired public employee and member of the Association of Montana Retired Public Employees.

3. I was employed as the Executive Director of the Montana Public Employee Retirement Administration from 1996 to 2005.

4. After June 30 of each year, MPERA would send each PERS member an annual statement containing current information about their retirement plan.

5. Exhibit A to this Affidavit is a true and correct copy of the Defined Benefit Retirement Plan Annual Statement that I received from MPERA regarding my retirement benefits on or about June 30, 2005.

Further Affiant Sayeth Not.

DATED this 4th day of September, 2014.

By Michael J. O'Connor
Michael J. O'Connor

On this 4th day of September 2014, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared Michael J. O'Connor known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same.

In witness whereof, I have hereunto set my hand and affixed my notarial seal on the day and year first above written.

Amber G. Carlson
NOTARY PUBLIC FOR THE STATE OF MONTANA
Printed Name: Amber G. Carlson
Residing at: Helena, MT
My Commission Expires Aug. 26, 2016

(Notarial Seal)

AMBER G. CARLSON
NOTARY PUBLIC for the
State of Montana
Residing at Helena, Montana
My Commission Expires
August 26, 2016

AMBER G. CARLSON NOTARIAL SEAL STATE OF MONTANA

EXHIBIT
27

MONTANA PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION
PO BOX 200131
HELENA MT 59620-0131

Defined Benefit Retirement Plan Annual Statement
As of June 30, 2005
Public Employees' Retirement System (PERS)

MICHAEL J O'CONNOR
661 N WARREN ST
HELENA, MT 59601-3619

[redacted]

BENEFICIARY INFORMATION - to update, submit a membership card through your payroll clerk.

[redacted]

Disclaimer: This statement is for informational purposes only. Values shown are ESTIMATES. Actual retirement calculations are based on records on file with the Board, not on the information on this statement. Should any information in this statement conflict with statute or rule, statute or rule will apply. Retirement calculations use actuarial factors currently in effect. If those factors change, the estimates may also change.

While you are employed in a PERS covered job, you must make contributions to the PERS. When you retire or terminate from that employment, you may be eligible for a monthly benefit or refund.

Comparing Your Contributions to the Value of Your Benefit	Amount of **Your Contributions**	**Lifetime Benefit** Value of Your Retirement	**Initial Monthly Benefit**
Your Required Contributions through	$ [redacted]	$ [redacted] (If you terminated on or before the statement date and your benefit started at age 60)	$ [redacted] (If you terminated on or before the statement date and your benefit started at age 60)
Total Cost of Service Purchase Contracts Upon Completion	$ [redacted]		
If you continue contributing until: Age 50	$ [redacted]	$ [redacted]	$ [redacted]
Age 55	$ [redacted]	$ [redacted]	$ [redacted]
Age 60	$ [redacted]	$ [redacted]	$ [redacted]

* See Reverse for Detailed Explanation of Your Statement *

Service Credit:
Service Credit for Employment [redacted] years as of statement date
Service Credit Purchased/Transferred years as of statement date
Service Credit Purchases in Progress years when completed
Total Years of Service Credit years as described

One for Five Service Purchased/in Progress [redacted] years as of statement date

When you terminate your employment, instead of a monthly benefit for life, you may receive a lump-sum refund of your contributions plus interest. The refund amount as of June 30, 2005 was: $ [redacted]

Please check all data on this statement carefully. If you find errors, mail a corrected copy to the MPERA.
Address corrections should be given to your payroll clerk.
Alternative accessible formats of this document will be provided upon request. Contact the MPERA.

EXHIBIT
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A

UNDERSTANDING YOUR ANNUAL STATEMENT

Amount of Your Contributions
This column shows the following: the amount you have contributed as of the statement date; the total cost of your current service purchase contracts; and projections of your contributions if you complete current service purchase contracts and continue contributing until the three selected ages.**

The Lifetime Benefit Value of Your Retirement
This column shows the estimated value of the total benefit you will receive over the course of your lifetime, assuming you live an average number of years. This amount is shown in two ways:

- your total lifetime benefit beginning at age 60, if you stopped contributing as of the statement date, and if, at termination, you have completed your service purchase contract(s);
- your total lifetime benefit if you continue contributing, complete your service purchase contract(s), and retire at one of three selected ages.

The lifetime benefit is equal to the benefit you will receive over an average lifetime, including a 3% annual benefit increase allowed by statute.**

EAHISPT 59601

MICHAEL J O'CONNOR
661 N WARREN ST
HELENA, MT 59601-3619

MONTANA
PUBLIC EMPLOYEE
RETIREMENT ADMINISTRATION
PO BOX 200131
HELENA MT 59620-0131

CP6109

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Permit #89
Helena MT

Initial Monthly Benefit
This column shows the initial monthly benefit payment you will receive each month for life. (Alternative benefit payment options to provide for others are available to you at retirement.) The amounts are shown in two ways:

- your initial monthly benefit beginning at age 60, if you stopped contributing as of the statement date, and if, at termination, you have completed your service purchase contract(s);
- your initial monthly benefit if you continue contributing, complete your service purchase contract(s), and retire at one of the three ages.**

**Note: The salary used to calculate future contributions and benefits assumes a 1.5% annual salary increase. Lifetime benefit values include the 3% guaranteed annual benefit adjustment (GABA) paid each January after you have been retired for 1 year. If you currently contribute to the PERS, your service credit is projected to retirement at the ages indicated. If you are no longer contributing, your contributions and service credit are not projected past your termination date.*

Service Credit
Your total years of service credit include service credit on file, credit for completed service purchases and credit for service you are in the process of purchasing. The service credit shown assumes that you will complete current service purchase contracts. One for five purchases are not included in your total service.

Your benefit will not be adversely affected by unfavorable investment returns. PERS -- not you -- assumes the investment risk. Refer to your PERS handbook for details on how your benefit is determined. The PERS also provides a disability and survivor benefit.