



AN ACT GENERALLY REVISING LAWS RELATED TO THE ADMINISTRATION OF PUBLIC EMPLOYEE RETIREMENT SYSTEMS; REVISING PROVISIONS OF THE PUBLIC EMPLOYEES', JUDGES', HIGHWAY PATROL OFFICERS', SHERIFFS', GAME WARDENS' AND PEACE OFFICERS', MUNICIPAL POLICE OFFICERS', AND FIREFIGHTERS' UNIFIED RETIREMENT SYSTEMS; REVISING PROVISIONS OF THE VOLUNTEER FIREFIGHTERS' COMPENSATION ACT; PROVIDING FOR RECOVERY OF IMPROPER PAYMENTS; REVISING CERTAIN BENEFITS FOR CONTINGENT ANNUITANTS AND BENEFICIARIES; CLARIFYING OPTIONAL MEMBERSHIP PROVISIONS; CLARIFYING THE CALCULATION OF CERTAIN BENEFITS; REVISING CERTAIN BENEFIT PAYMENTS AND MEMBERSHIP ELECTION PROVISIONS; ELIMINATING EXPIRED PROVISIONS; AMENDING SECTIONS 5-2-304, 19-2-405, 19-2-801, 19-2-903, 19-2-904, 19-2-908, 19-3-411, 19-3-412, 19-3-904, 19-3-1105, 19-3-1106, 19-3-1210, 19-3-1501, 19-3-2141, 19-5-701, 19-5-802, 19-7-301, 19-7-410, 19-7-503, 19-7-1001, 19-8-302, 19-8-801, 19-8-1001, 19-8-1002, 19-9-301, 19-9-1206, 19-17-112, AND 19-20-302, MCA; REPEALING SECTION 19-9-1020, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

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

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

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

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

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

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

(ii) remain an inactive or retired member of the retirement system and become an active member of the public employees' retirement system pursuant to ~~19-3-412~~ [section 9].

(b) A person who is an inactive or retired member of the public employees' retirement system provided for in Title 19, chapter 3, and who is elected or appointed to the legislature may return to active membership in the public employees' retirement system but cannot simultaneously be an inactive or retired member of the system as a result of prior covered terminated employment and an active member of the retirement system under ~~19-3-412~~ [section 9] or this section.

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

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

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

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

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

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

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

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

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

(b) In determining the amortization period under subsection (4)(a) for the public employees' retirement system's defined benefit plan, the actuary shall take into account the plan choice rate contributions to be made to the defined benefit plan pursuant to 19-3-2117 and ~~19-21-203~~ 19-21-214.

(5) The board shall require the actuary to conduct and report on a periodic actuarial investigation into the actuarial experience of the retirement systems and plans.

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

(7) The board shall provide copies of the reports required pursuant to subsections (2) and (5) to the state administration and veterans' affairs interim committee and to the legislature pursuant to 5-11-210.

(8) The board shall require the actuary to prepare for each employer participating in a retirement system the disclosures or the information required to be included in the disclosures as required by law and by the governmental accounting standards board or its generally recognized successor."

Section 3. Section 19-2-801, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

Section 4. Section 19-2-903, MCA, is amended to read:

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

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

(c) a lump-sum payment or a rollover from a member.

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

(a) adjusting the subsequent lump-sum or installment payments from the member or the member's employer;

(b) accepting a lump-sum payment or rollover from the member for the amount underpaid; or

(c) granting the member service credit proportional to the amount actually paid.

(3) If fraud or error results in a member, survivor, or beneficiary receiving more or less than entitled to, then ~~on~~ upon the discovery of the error, the board shall correct the error ~~and, if necessary, equitably adjust the payments.~~

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

(b) To recover an amount owed pursuant to this subsection (4), the board may adjust future benefit payments or arrange for another method of payment. For collection of amounts due, the board may pursue all remedies available by law to it, including but not limited to initiating a lawsuit or assigning or referring the debt to an attorney or collection agency.

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

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

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

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

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

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

(b) If the amount owed is not paid in full within 30 days after issuance of the final staff determination, the amount owed accrues interest at the retirement system's actuarially assumed annual rate of return, compounded monthly, beginning on the 31st day after issuance of the final staff determination. Interest continues to accrue until the amount owed to the retirement system is fully paid."

Section 5. Section 19-2-904, MCA, is amended to read:

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

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

Section 6. Section 19-2-908, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

(7) With respect to the defined contribution plan, the board shall adopt rules regarding the

commencement of benefits that are consistent with applicable provisions of the Internal Revenue Code and its implementing regulations."

Section 7. Section 19-3-411, MCA, is amended to read:

"19-3-411. Eligible employees. Subject to 19-3-402, 19-3-403, and 19-3-412, and [section 9], eligible employees under the system who are not covered by a separate retirement system under this title include the following:

- (1) any employee of the state of Montana, its university system or any of the colleges, schools, components, or units of the university system; and
- (2) any employee of a contracting employer eligible to participate under the contract between the board and the contracting employer under 19-3-201."

Section 8. Section 19-3-412, MCA, is amended to read:

"19-3-412. Optional membership -- employees not in elected office. (1) Except as provided in ~~5-2-304~~ and subsection (2) of this section, the following employees ~~and elected officials~~ in covered positions that are not elected offices shall elect either to become active members of the retirement system or to decline this optional membership by filing an irrevocable, written application with the board in the manner prescribed in subsection (3):

- ~~(a) elected officials of the state or local governments, including individuals appointed to fill the unexpired term of elected officials, who:~~
 - ~~—— (i) are paid on a salary or wage basis rather than on a per diem or other reimbursement basis; or~~
 - ~~—— (ii) were members receiving retirement benefits under the defined benefit plan or a distribution under the defined contribution plan at the time of their election;~~
- ~~(b)~~(a) employees serving in employment that does not cumulatively exceed a total of 960 hours of covered employment with all employers under this chapter in any fiscal year;
- ~~(c)~~(b) employees directly appointed by the governor;
- ~~(d)~~(c) employees working 10 months or less for the legislative branch to perform work related to the legislative session;
- ~~(e)~~(d) the chief administrative officer of any city or county; and

~~(f)~~(e) employees of county hospitals or rest homes.

(2) ~~(a) A member who is elected to a local government position in which the member works less than 960 hours in a fiscal year may, within 90 days of taking office, decline optional membership with respect to the member's elected position. An employee who is an active or inactive member at the time of employment is not eligible to make an election under subsection (1). Upon employment in the position, an employee who was an active member remains an active member for all covered employment and an employee who was an inactive member shall become an active member.~~

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

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

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

(c) The written application must be filed with the board:

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

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

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

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

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

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

comply with 19-3-505.

~~(7) Except as provided in subsection (2), membership in the retirement system is not optional for an employee or elected official who is already a member. Upon employment in a position for which membership is optional:~~

- ~~—— (a) a member who was an active member before the employment remains an active member;~~
- ~~—— (b) a member who was an inactive member before the employment becomes an active member; and~~
- ~~—— (c) a member who was a retired member before the employment is subject to part 11 of this chapter.~~

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

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

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

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

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

~~(9)(8) An employee accepting a position that requires membership ~~must~~ shall become a member even if the employee previously declined membership ~~and did not have a 30-day break in service~~ under this section."~~

Section 9. Optional membership -- elected officials. (1) (a) Except as provided in 5-2-304 and subsection (2) of this section, a person who is elected or appointed to an elected office and paid a salary or wage by an employer shall elect either to become an active member of the retirement system or to decline this optional membership by filing an irrevocable, written application with the board in the manner prescribed in subsection (3).

(b) If the elected official is a retired member, the elected official may make an election under this section

to become an active member or to decline membership and remain a retired member with no limitation on the number of hours worked or wages earned in the elected office.

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

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

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

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

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

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

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

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

Section 10. Section 19-3-904, MCA, is amended to read:

"19-3-904. Amount of service retirement benefit. (1) The monthly amount of service retirement benefit payable following retirement to a member hired before July 1, 2011, with:

(a) less than 25 years of membership service is the greater of one fifty-sixth of the member's highest average compensation multiplied by the number of years of the member's total service credit or the benefit calculated under subsection (3); or

(b) 25 or more years of membership service is 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 benefit calculated under subsection (3).

(2) The monthly amount of service retirement benefit payable following retirement to a member hired on or after July 1, 2011, with:

(a) less than 10 years of membership service is the greater of 1.5% of the member's highest average compensation multiplied by the number of years of the member's total service credit or the benefit calculated under subsection (3);

(b) 10 or more years but less than 30 years of membership service is the greater of one fifty-sixth of the member's highest average compensation multiplied by the number of years of the member's total service credit or the benefit calculated under subsection (3); or

(c) 30 or more years of membership service is 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 benefit calculated under subsection (3).

(3) ~~Instead of the benefit provided under subsection (1) or (2), a~~ A member may is entitled to receive the greater of:

(a) the benefit provided pursuant to subsection (1) or (2); or

(b) a monthly benefit that is the actuarial equivalent of the sum of:

(i) double the member's ~~accumulated~~ regular contributions and regular interest; and

(ii) if that benefit is greater than the benefit the member would have received under subsection (1) or (2)

any amounts paid by the member to purchase service credit and membership service as provided by law."

Section 11. Section 19-3-1105, MCA, is amended to read:

"19-3-1105. Benefit upon second retirement. (1) ~~Except as otherwise expressly provided by law, a member with~~ A member with an initial retirement date before January 1, 2016, who returns to active service and accrues:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(2)~~(5) Upon retirement subsequent to a cancellation of a disability benefit under 19-3-1104, a member must receive a recalculated benefit as provided in 19-3-904 or 19-3-906, as applicable. The recalculated benefit is based on service credit accumulated at the time of the member's previous retirement plus any service credit accumulated subsequent to reemployment."

Section 12. Section 19-3-1106, MCA, is amended to read:

"19-3-1106. Limited reemployment -- reduction of service retirement benefit upon exceeding limits -- reporting obligations -- liability -- exceptions. (1) A retired member under 65 years of age who was hired prior to July 1, 2011, who has been terminated from employment for at least 90 days, and who is receiving a service retirement benefit or early retirement benefit may return to employment covered by the retirement system for a period not to exceed 960 hours in any calendar year without returning to active service and without any effect to the retiree's retirement benefit. The retirement benefit for any retiree exceeding this 960-hour limitation in any calendar year after retirement must be temporarily reduced \$1 for each \$1 earned after working 960 hours in that calendar year.

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

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

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

(4) ~~A~~ Except as provided in [section 9], a retiree returning to employment covered by the retirement system may elect to return to active ~~membership~~ service at any time during this period of covered employment.

(5) The following members who return to employment covered by the retirement system are not subject

to the hour or earnings limitations in subsections (1) and (2) ~~or~~ but are subject to the reporting requirements in subsection (3):

(a) a retired member who is 70 1/2 years of age or older; or

(b) an elected official in a covered position who, as a retired member, declines optional membership as provided in ~~19-3-412~~ [section 9].

(6) ~~Except as provided in subsection (5), if~~ If a retired member is employed by an employer in a position that is reportable to the retirement system and the retired member is concurrently working for the employer in another position that is not reportable to the system, the position that is not reportable is considered to be part of the position that is reportable to the retirement system. All earnings of the retired member that are generated by these positions are reportable to the retirement system.

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

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

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

Section 13. Section 19-3-1210, MCA, is amended to read:

"19-3-1210. Death payments to designated beneficiaries of retired members. (1) When a retired member receiving an option 1 retirement benefit under 19-3-1501 dies, the member's designated beneficiary or, if there is no surviving designated beneficiary, the member's estate must be paid the amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement minus the total of any retirement benefits already paid from the member's account.

(2) If a retired member receiving an option 2 or 3 retirement benefit under 19-3-1501 dies with no surviving contingent annuitant, the member's designated beneficiary or, if there is no surviving designated beneficiary, the member's estate must be paid the amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement minus the total of any retirement benefits already paid from the member's account.

(3) This section does not apply if the member was receiving a disability benefit. The member's accumulated contributions may not be reduced by the disability benefits already paid unless the disability benefit

was converted to a service retirement benefit pursuant to 19-2-406(5)."

Section 14. Section 19-3-1501, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

(ii) if there is more than one surviving contingent annuitant, each contingent annuitant must receive a

proportion of the initial payee's benefit on a share-and-share-alike basis;

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

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

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

(5) If the member dies after ~~retirement~~ terminating service and within 30 days ~~from~~ after the date that the member's written application electing or changing an election of an optional retirement benefit under subsection (2) is received by the board, then the election is void.

(6) After the member or designated beneficiary has received and accepted an initial retirement benefit payment, the member may not change the selected option except as provided in subsection (7).

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

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

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

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

(a) revert to the member's original option 1 retirement benefit, increased by the amount of any adjustments received by the member since the effective date of the member's retirement;

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

(c) select a different option under subsection (2) and name a new contingent annuitant.

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

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

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

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

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

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

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

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

(b) 10 or more but less than 30 years of membership service is equal to one fifty-sixth of the member's highest average compensation multiplied by the member's years of service credit, including any additional service credit purchased under 19-3-513; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 16. Section 19-5-701, MCA, is amended to read:

"19-5-701. Optional forms of benefits -- designation of contingent annuitant. (1) The retirement benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted, in lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of

the original benefit. If the member does not elect an optional retirement benefit pursuant to subsection (2), the member's retirement benefit is known as an option 1 benefit.

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

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

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

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

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

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

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

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

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

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

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

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

must be identified on the application.

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

(5) If the member dies after ~~retirement~~ terminating service and within 30 days ~~from~~ after the date that the member's written application electing or changing an election of an optional retirement benefit under subsection (2) is received by the board, the election is void.

(6) After the member or designated beneficiary has received and accepted an initial retirement benefit payment, the member may not change the selected option except as provided in subsection (7).

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

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

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

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

(a) revert to the member's original option 1 retirement benefit, increased by the amount of any adjustments received by the member since the effective date of the member's retirement;

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

(c) select a different option under subsection (2) and name a new contingent annuitant.

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

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

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

"19-5-802. Payments upon death from other than employment-related cause. (1) If ~~an active a~~ vested member dies before reaching normal retirement age, the member's designated beneficiary is entitled to a monthly survivorship benefit that is the actuarial equivalent of the retirement benefit provided in 19-5-502.

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

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

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

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

Section 18. Section 19-7-301, MCA, is amended to read:

"19-7-301. Membership -- inactive vested members -- inactive nonvested members. (1) (a) Except as provided in subsection (1)(b), each sheriff shall become a member of the sheriffs' retirement system.

(b) A sheriff who was a member of the public employees' retirement system on July 1, 1974, may remain a public employees' retirement system member or elect to become a member of the sheriffs' retirement system by filing a written election with the board at any time before retirement.

(2) (a) Except as provided in subsection (2)(b), an investigator shall become a member of the sheriffs'

retirement system.

(b) An investigator who was a member of the public employees' retirement system on July 1, 1993, may remain in the public employees' retirement system or elect to become a member of the sheriffs' retirement system by filing a written election with the board at any time before retirement.

(3) (a) Except as provided in subsection (3)(b), a detention officer shall become a member of the sheriffs' retirement system.

(b) A detention officer who was a member of the public employees' retirement system on July 1, 2005, may remain in the public employees' retirement system or elect to become a member of the sheriffs' retirement system by filing a written election with the board before May 1, 2006.

(4) A member of the public employees' retirement system who begins employment in a position covered by the sheriffs' retirement system may remain in the public employees' retirement system or may elect to become a member of the sheriffs' retirement system by filing a written election with the board no later than ~~30~~ 90 days after beginning the employment.

(5) Failure to make an election as provided in subsection (4) is considered an election to remain in the public employees' retirement system.

~~(5)(6)~~ A sheriff, investigator, or detention officer who elects to become a member of the sheriffs' retirement system must be an active member as long as actively employed in an eligible capacity, except as provided in 19-7-1101(2).

~~(6)(7)~~ (a) An inactive member with at least 5 years of membership service is an inactive vested member and retains the right to purchase service credit and to receive a retirement benefit under the provisions of this chapter.

(b) If an inactive vested member chooses to take a lump-sum payment rather than a retirement benefit, the lump-sum payment consists of only the member's accumulated contributions and not the employer's contributions.

~~(7)(8)~~ (a) An inactive member with less than 5 years of membership service is an inactive nonvested member and is not eligible for any benefits from the retirement system.

(b) An inactive nonvested member is eligible only for a refund of the member's accumulated contributions."

Section 19. Section 19-7-410, MCA, is amended to read:

"19-7-410. Contributions based on total compensation when member receives disability compensation. When a member receives compensation from both the member's employer and the workers' compensation program ~~under the provisions of 7-32-2113~~, the member's compensation reported by the employer is the same as if the member was in active service, and the member and employer contributions required by this chapter must be calculated and paid on that total compensation."

Section 20. Section 19-7-503, MCA, is amended to read:

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

(2) When a retired member receiving an option 1 retirement benefit under 19-7-1001 dies, the member's designated beneficiary or, if there is no surviving designated beneficiary, the member's estate must be paid the amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement minus the total of any retirement benefits already paid from the member's account.

(3) If a retired member who elected an option 2 or 3 benefit under 19-7-1001 dies with no surviving contingent annuitant, the member's designated beneficiary or, if there is no surviving designated beneficiary, the member's estate must be paid the amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement minus the total of any retirement benefits already paid from the member's account.

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

Section 21. Section 19-7-1001, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) If the member or designated beneficiary or the named contingent annuitant dies before the first

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

(5) If the member dies after ~~retirement~~ terminating service and within 30 days ~~from~~ after the date that the member's written application electing or changing an election of an optional retirement benefit under subsection (2) is received by the board, the election is void.

(6) After the member or designated beneficiary has received and accepted an initial retirement benefit payment, the member may not change the selected option except as provided in subsection (7).

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

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

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

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

(a) revert to the member's original option 1 retirement benefit, increased by the amount of any adjustments received by the member since the effective date of the member's retirement;

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

(c) select a different option under subsection (2) and name a new contingent annuitant.

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

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

Section 22. Section 19-8-302, MCA, is amended to read:

"19-8-302. Public employees' retirement system -- transfer of membership. (1) Except as provided

in subsection (3), an eligible peace officer ~~must~~ shall become a member of the game wardens' and peace officers' retirement system on the first day of service.

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

(3) A person who is a member of the public employees' retirement system who transfers to a position covered by the game wardens' and peace officers' retirement system may elect to become a member of the retirement system or may continue membership in the public employees' retirement system by filing a written election with the board no later than 90 days after transfer to the new position.

(4) Failure to make an election as provided in subsection (3) is considered an election to remain in the public employees' retirement system."

Section 23. Section 19-8-801, MCA, is amended to read:

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

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

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

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

(ii) if the member or designated beneficiary is under 70 years of age, the age difference determined in

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

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

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

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

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

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

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

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

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

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

(5) If the member dies after ~~retirement~~ terminating service and within 30 days ~~from~~ after the date that the member's written application electing or changing an election of an optional retirement benefit under subsection (2) is received by the board, the election is void.

(6) After the member or designated beneficiary has received and accepted an initial retirement benefit payment, the member may not change the selected option except as provided in subsection (7).

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

(a) the original contingent annuitant has died, in which case the optional benefit must revert effective on

the first day of the month following the contingent annuitant's death; or

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

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

(a) revert to the member's original option 1 retirement benefit, increased by the amount of any adjustments received by the member since the effective date of the member's retirement;

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

(c) select a different option under subsection (2) and name a new contingent annuitant.

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

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

Section 24. Section 19-8-1001, MCA, is amended to read:

"19-8-1001. Benefits upon employment-related death. If the board finds that a member died as a direct and proximate result of injury received in the course of the member's service, a monthly survivorship benefit must be paid to the member's designated beneficiary equal to 50% of the highest average compensation of the member. If the deceased member has completed more than 25 years of service credit, the survivorship benefit must equal ~~2%~~ 2.5% of the member's highest average compensation for each year of service credit."

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

"19-8-1002. Postretirement death payments. (1) When a retired member receiving an option 1 retirement benefit under 19-8-801 dies, the member's designated beneficiary or, if there is no surviving designated beneficiary, the member's estate must be paid the amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement minus the total of any retirement benefits

already paid from the member's account.

(2) If a retired member who elected an option 2 or 3 retirement benefit under 19-8-801 dies with no surviving contingent annuitant, the member's designated beneficiary or, if there is no surviving beneficiary, the member's estate must be paid the amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement minus the total of any retirement benefits already paid from the member's account.

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

Section 26. Section 19-9-301, MCA, is amended to read:

"19-9-301. Active membership -- inactive vested member -- inactive nonvested member. (1) A police officer becomes an active member of the retirement system:

(a) on the date the police officer's service with an employer commences;

(b) on July 1, 1977, if the police officer is employed by an employer on that date; or

(c) in the case of an employer that elects to join the retirement system, as provided in 19-9-207, on the effective date of the election if the police officer is employed by the employer on that date. A person who is a member of the public employees' retirement system on the date of the employer's election may remain in the public employees' retirement system or may elect to become a member of the municipal police officers' retirement system by filing an irrevocable written election with the board no later than 90 days after the date of the employer's election.

(2) Failure to make an election as provided in subsection (1)(c) is considered an election to remain in the public employees' retirement system.

~~(2)~~(3) Upon becoming eligible for membership, the police officer shall complete the forms and furnish the proof required by the board.

~~(3)~~(4) A member becomes an inactive member on the first day of an approved absence from service of a substantial duration.

~~(4)~~(5) (a) An inactive member with at least 5 years of membership service is an inactive vested member and retains the right to purchase service credit and to receive a retirement benefit under the provisions of this

chapter.

(b) If an inactive vested member chooses to take a lump-sum payment rather than a retirement benefit, the lump-sum payment consists of only the member's accumulated contributions and not the employer contributions.

~~(5)~~(6) (a) An inactive member with less than 5 years of membership service is an inactive nonvested member and is not eligible for any benefits from the retirement system.

(b) An inactive nonvested member is eligible only for a refund of the member's accumulated contributions."

Section 27. Section 19-9-1206, MCA, is amended to read:

"19-9-1206. Survivorship benefits. (1) If a participant dies prior to the receipt of the DROP benefit pursuant to 19-9-1208, the participant's surviving spouse or dependent child is entitled to receive a lump-sum payment equal to the participant's DROP benefit ~~and the member's accumulated contributions minus any benefits paid from the member's DROP account, including monthly DROP accruals~~ as of the date of the member's death and the benefit the surviving spouse or dependent child would have received under 19-9-804 had the member retired rather than elected to participate in the DROP.

(2) If there is no surviving spouse or dependent child, the designated beneficiary is entitled to receive a lump-sum payment equal to the participant's DROP benefit as of the date of the member's death and the member's accumulated contributions minus any benefits paid from the member's account, including monthly DROP payments.

(3) The benefit paid pursuant to this section must include interest credited to the participant's account as follows:

(a) through June 30, 2009, interest must be credited every fiscal yearend at a rate reflecting the retirement system's annual investment earnings for the applicable fiscal year;

(b) after June 30, 2009, interest must be credited every fiscal yearend at the actuarially assumed rate of return. Proportionate interest must be credited for distributions taking place at other than a fiscal yearend."

Section 28. Section 19-17-112, MCA, is amended to read:

"19-17-112. Filing required reports -- limitations. (1) The chief or designated official of each fire

company that claims eligibility under this chapter shall, on or before September 1 of each year, file with the board an annual certificate, the current year's roster, and a membership card for each new member.

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

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

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

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

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

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

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

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

Section 29. Section 19-20-302, MCA, is amended to read:

"19-20-302. Active membership. (1) Unless otherwise provided by this chapter, the following persons employed by an employer must be active members of the retirement system:

(a) a person who is a teacher, principal, or district superintendent as defined in 20-1-101;

(b) a person who is an administrative officer or a member of the instructional or scientific staff of a unit of the Montana university system and who has not elected or is not required to participate in the university system retirement program under Title 19, chapter 21;

(c) a person employed as a speech-language pathologist, school nurse, professionally qualified person as defined in 20-7-901, paraprofessional who provides instructional support, dean of students, or school psychologist;

(d) a person employed in a teaching or an educational services capacity by the office of a county superintendent, an education cooperative, a public institution of the state of Montana, the Montana state school for the deaf and blind, or a school district;

(e) a person who is an administrative officer or a member of the instructional staff of the board of public education;

(f) the superintendent of public instruction or a person employed as a teacher or in an educational services capacity by the office of public instruction;

(g) except as provided in subsection (2), a person elected to the office of county superintendent of schools;

(h) a person who is an administrative officer or a member of the instructional or scientific staff of a community college; and

(i) a person employed in a nonclerical position and who is reported on an employer's annual data collection report submitted to the office of public instruction.

(2) A retired member elected to the office of county superintendent of schools or appointed to complete the term of an elected county superintendent of schools after July 1, 1995, is not eligible for optional membership in the public employees' retirement system under the provisions of 19-3-412 or [section 9] and shall, within 30 days of taking office, file an irrevocable written election to become or to not become an active member of the teachers' retirement system. The retirement system membership of an elected county superintendent of schools as of June 30, 1995, must remain unchanged for as long as the person continues to serve in the capacity of county superintendent of schools.

(3) In order to be eligible for active membership, a person described in subsection (1) or (2) must:

(a) be employed in the capacity prescribed for the person's eligibility for at least 30 days in any fiscal year; and

(b) have the compensation for the person's creditable service totally paid by an employer.

(4) (a) A substitute teacher or a part-time teacher's aide:

(i) shall file an irrevocable written election determining whether to become an active member of the retirement system on the first day of employment; or

(ii) is required to become an active member of the retirement system after completing 210 hours of employment in any fiscal year if the substitute teacher or part-time teacher's aide has not elected membership under subsection (4)(a)(i).

(b) Once a part-time teacher's aide becomes a member, the aide is required to remain an active member as long as the aide is employed in that capacity. Once a substitute teacher becomes a member, the substitute teacher is required to remain a member as long as the teacher is available for employment in that capacity.

(c) The employer shall give written notification to a substitute teacher or part-time teacher's aide on the first day of employment of the option to elect membership under subsection (4)(a)(i).

(d) If a substitute teacher or part-time teacher's aide declines to elect membership during the election period, the teacher or part-time teacher's aide shall file a written statement with the employer waiving membership and the employer shall retain the statement.

(5) A school district clerk or business official may not become a member of the teachers' retirement system. A school district clerk or business official who is a member of the system on July 1, 2001, is required to remain an active member of the system while employed in that capacity, and any postretirement earnings from employment as a school district clerk or school business official are subject to the limit on earnings provided in 19-20-731.

(6) At any time that a person's eligibility to become a member of the retirement system is in doubt, the retirement board shall determine the person's eligibility for membership. All persons in similar circumstances must be treated alike.

(7) As used in this section, "part-time teacher's aide" means an individual who works less than 7 hours a day assisting a certified teacher in a classroom.

(8) (a) An active member of the system concurrently employed in a position identified in subsection (1)(b) may not elect to participate in the university system retirement program under Title 19, chapter 21.

(b) An employee of the Montana university system who is a participant in the university system retirement program under Title 19, chapter 21, and who is concurrently employed in a position identified in subsections (1)(a)

or (1)(c) through (1)(i) is ineligible to be an active member of this system."

Section 30. Repealer. The following section of the Montana Code Annotated is repealed:
19-9-1020. One-time permanent ad hoc purchasing power adjustment.

Section 31. Codification instruction. [Section 9] is intended to be codified as an integral part of Title 19, chapter 3, part 4, and the provisions of Title 19, chapter 3, part 4, apply to [section 9].

Section 32. Effective date. [This act] is effective January 1, 2016.

- END -

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

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2015.

President of the Senate

Signed this _____ day
of _____, 2015.

HOUSE BILL NO. 101

INTRODUCED BY T. STEENBERG

BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

AN ACT GENERALLY REVISING LAWS RELATED TO THE ADMINISTRATION OF PUBLIC EMPLOYEE RETIREMENT SYSTEMS; REVISING PROVISIONS OF THE PUBLIC EMPLOYEES', JUDGES', HIGHWAY PATROL OFFICERS', SHERIFFS', GAME WARDENS' AND PEACE OFFICERS', MUNICIPAL POLICE OFFICERS', AND FIREFIGHTERS' UNIFIED RETIREMENT SYSTEMS; REVISING PROVISIONS OF THE VOLUNTEER FIREFIGHTERS' COMPENSATION ACT; PROVIDING FOR RECOVERY OF IMPROPER PAYMENTS; REVISING CERTAIN BENEFITS FOR CONTINGENT ANNUITANTS AND BENEFICIARIES; CLARIFYING OPTIONAL MEMBERSHIP PROVISIONS; CLARIFYING THE CALCULATION OF CERTAIN BENEFITS; REVISING CERTAIN BENEFIT PAYMENTS AND MEMBERSHIP ELECTION PROVISIONS; ELIMINATING EXPIRED PROVISIONS; AMENDING SECTIONS 5-2-304, 19-2-405, 19-2-801, 19-2-903, 19-2-904, 19-2-908, 19-3-411, 19-3-412, 19-3-904, 19-3-1105, 19-3-1106, 19-3-1210, 19-3-1501, 19-3-2141, 19-5-701, 19-5-802, 19-7-301, 19-7-410, 19-7-503, 19-7-1001, 19-8-302, 19-8-801, 19-8-1001, 19-8-1002, 19-9-301, 19-9-1206, 19-17-112, AND 19-20-302, MCA; REPEALING SECTION 19-9-1020, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.