# SENATE BILL NO. 115

## INTRODUCED BY MANNING

# BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

### IN THE SENATE

January 15, 1985	Introduced and referred to Committee on State Administration.
January 24, 1985	Committee recommend bill do pass. Report adopted.
January 25, 1985	Bill printed and placed on members' desks.
January 26, 1985	Second reading, do pass.
January 28, 1958	Considered correctly engrossed.
January 29, 1985	Third reading, passed. Ayes, 46; Noes, 2.
	Transmitted to House.
IN THE	HOUSE
February 27, 1985	Introduced and referred to Committee on State Administration.
March 7, 1985	Committee recommend bill be concurred in. Report adopted.
March 9, 1985	Second reading, concurred in.
March 12, 1985	Third reading, concurred in.
	Returned to Senate.

## IN THE SENATE

March 13, 1985

Received from House.

Sent to enrolling.

Reported correctly enrolled.

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1	enate BILL NO. 115
2	INTRODUCED BY June Manning
3	BY REQUEST OF THE PUBLIC
4	EMPLOYEES' RETIREMENT BOARD
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6	A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE MANDATORY
7	AND COMPULSORY RETIREMENT AGE PROVISIONS FROM THE PUBLIC LAW
8	ENFORCEMENT AND THE MONTANA FIREFIGHTERS' UNIFIED RETIREMENT
Q	SYSTEMS; CLARIFYING THE RETIREMENT DATE FOR THE
a	FIREFIGHTERS' SYSTEM; AMENDING SECTIONS 19-6-101, 19-7-501,
.1	19-8-601, 19-9-104, 19-9-801, 19-9-802, 19-9-804, 19-10-401,
.2	19-10-403, 19-10-501, 19-13-701, AND 19-13-704, MCA;
	REPEALING SECTIONS 19-6-504, 19-9-803, 19-13-702, AND
. 3	19-13-703, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
4	19-13-703, MCA; NUD TROVEDENCE IN THE TENT
L 5	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16	Section 1. Section 19-6-101, MCA, is amended to read:
17	
18	"19-6-101. Definitions. Unless the context requires
19	otherwise, the following definitions apply in this chapter:
20	(1) "Account" means the Montana highway patrolmen's
21	retirement pension trust fund.
22	(2) "Accumulated deductions" means the total of the
23	amounts deducted from the salary of a member, paid into the
24	account, and standing to his credit in the account, togethe
25	with the regular interest thereon.

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1	(3) "Actuarial equivalent" means a benefit of equal
2	value when computed on the basis of the actuarial tables in
3	use by the system.
4	(4) "Beneficiary" means a person nominated to receive
5	benefits under this chapter by a member's written
6	designation, duly acknowledged and filed with the
7	department.
8	(5) "Board" means the public employees' retirement

board provided for in 2-15-1009. 10 t6}--#Compwlsory-retirement-age#-means-60-years-of-age-11 (7)(6) "Department" means the public employees'

retirement division of the department of administration.

(8)(7) "Final salary" means the average annual compensation received by a member, before any deductions have been made and exclusive of maintenance, allowances, and expenses, 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 years served. Lump-sum payments for sick leave and annual leave paid to an employee upon termination of employment may be used in the calculation of a retirement allowance 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 salary. A lump-sum payment may not be added to a single

- 1 month's compensation.
- 2 (9)(8) "Member" means a person who has accumulated
   3 deductions in the account standing to his credit.
- 4 (10)(9) "Member's annuity" means payments for life
  5 derived from contributions made by the member.
- 8 (±2)(11) "Retirement age" means the age at which a
  9 member retires after 25 years of creditable service with the
  10 Montana highway patrol or-60-years-of-age,-whichever-occurs
  11 first.
- 14 (±4)(13) "State annuity" means payments for life 15 derived from contributions made by the state of Montana."
- Section 2. Section 19-7-501, MCA, is amended to read:
- 17 "19-7-501. Eligibility and application for service
- 18 retirement -- commencement of allowance. (1) A sheriff in
- 19 service who has completed at least 25 years of service and
- 21 retirement allowance upon written application to the board,

who has reached the age of 55 years may retire on a service

- at rectrement attowance upon written apprication to the boats,
- 22 submitted not less than 30 days or more than 90 days from
- 23 the desired date of retirement.

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- 24 (2)--Retirement--is--compulsory--for---any---nonelected
- 25 sheriff-at-age-65;-except-in-the-case-of-undersheriffs;

- 1 (3)(2) The retirement allowance must commence on the 2 first day of the month following the member's last day of
- 4 Section 3. Section 19-8-601, MCA, is amended to read:
- 5 "19-8-601. Time of retirement -- commencement of
- 6 allowance. (1) Any member in service who has completed at
- 7 least 20 years of creditable service and who has reached the
- 8 age of 55 years may retire on service retirement allowance
- upon written application to the board setting forth at what
- 1. time, not less than 30 days or more than 90 days subsequent
- 11 to the filing thereof, he desires to be retired.
  - (2)--Retirement-shall-be-compulsory-at-age-60-
- 13 (3)(2) The retirement allowance must commence on the
- 14 first day of the month following the member's last day of
- 15 covered employment."

membership service."

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- 16 Section 4. Section 19-9-104, MCA, is amended to read:
- 17 "19-9-104. Definitions. Unless the context requires
- 18 otherwise, the following definitions apply in this chapter:
- 19 (1) "Administrator" means the public employees'
- 20 retirement division of the department of administration.
- 21 (2) "Base salary" means the sum of the monthly
- 22 compensations for each month in a given calendar year.
- 23 (3) "Board" means the retirement board described in
- 24 2-15-1009.
- 25 (4) "Credited service" means the aggregate of a

member's prior service and membership service.

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- 2 (5) "Dependent child" means a child of a deceased
  3 member:
  - (a) who is unmarried and under 18 years of age; or
  - (b) who is unmarried, under 24 years of age, and attending an accredited postsecondary educational institution as a full-time student in anticipation of receiving a certificate or degree.
  - (6) "Employer" means any city which participated in a prior plan or which elects to join this plan under 19-9-107.
  - (7) "Employer annuity" means monthly payments for life derived from employer and state contributions.
  - (8) "Final average salary" means the monthly compensation of a member, averaged over the last 36 months of his active service or, in the event he has not been a member that long, over the period of his membership.
  - (9) "Fund" means the pension trust fund in the treasury system designated for the use of the plan.
  - (10)-"Mandatory-retirement-date"-means-the-first-day-of
    the--month-coinciding-with-or-immediately-following;-if-none
    coincides;-the-date-on-which-a-member-attains-age-65;
  - (+++)(10) "Member" means a person who is employed by an
    employer as a police officer or who is entitled to a
    retirement allowance by virtue of his service to an employer
    as a police officer.

- the the deductions from the compensation of a member, either made during a period of active membership hereunder or made under a prior plan and transferred to this plan, standing to his credit, together with the interest thereon.
- 8 t147(13) "Membership service" means a period of 9 employment with an employer occurring after June 30, 1977, 10 during which the withholdings required by this chapter have been made from a member's monthly compensation and credited 11 to his member contributions account. Pro rata credit shall 12 13 be granted for employment on a part-time basis or for employment over a period of less than a complete fiscal 14 15 year.
- 16 (±5†<u>{14}</u> "Minimum retirement date" or "normal 17 retirement date" means the first day of the month coinciding 18 with or immediately following, if none coincides, the date 19 on which a member becomes both age 50 or older and completes 20 20 or more years of credited service.
- 21 (±6)(15) "Monthly compensation" means the wage,
  22 excluding overtime, holiday payments, shift differential
  23 payments, compensation time payments, and payments in lieu
  24 of sick leave and annual leave, a member receives as an
  25 active police officer.

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(16) Any reference to "municipality", "city", or
"town" includes those jurisdictions which, prior to the
effective date of a county-municipal consolidation, were
incorporated municipalities, subsequent districts created
for urban la enforcement services, or the entire county
included in the county-municipal consolidation.

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fi0;(17) "Plan" means the municipal police officers'
retirement system created by this chapter.

9 (±9)(18) "Police officer" means a law enforcement 10 officer employed by an employer.

f20)(19) "Prior plan" means the local police reserve or retirement fund of a city which elects to join the plan under 19-9-107 or the statewide police reserve fund administered by the department of administration in accordance with Chapter 335, Laws of 1974.

(21)(20) "Prior service" means a period of employment as a police officer for which credit was granted to a member under a prior plan and has been transferred to this plan.

(22)(21) "Retirement allowance" means the employer annuity plus the member's annuity.

21 (23) (22) "Retirement date" means the date on which the 22 first payment of the retirement, disability, or survivor 23 benefits of a member or a beneficiary is payable.

24 (24)(23) "Surviving spouse" means the spouse married to
25 a member at the time of the member's death.

(25)(24) "Totally and permanently disabled" means that the board, upon certification by a licensed and practicing physician, has determined that a member's disability is of such a nature as to permanently impair his ability to discharge his normal duties as a police officer."

Section 5. Section 19-9-801, MCA, is amended to read:

"19-9-801. Eligibility for service retirement -commencement of allowance. Members are eligible for
retirement and shall retire as provided in this section:

- (1) A member who was employed by an employer as a police officer on July 1, 1975, is eligible to receive a service retirement allowance when he has completed 20 years or more in the aggregate as a probationary officer, a regular officer, or a special officer, in any capacity or rank.
- (2) A member who was or is first employed by an employer as a police officer after July 1, 1975, is eligible to receive a service retirement allowance when he has reached the age of 50 and has completed 20 years or more in the aggregate as a probationary officer, a regular officer, or a special officer, in any capacity or rank.
- 22 (3)--Police--officers,-whether-first-employed-before-or 23 after-July-1,-1975,-who-reach-the-age-of-65-while-in--active 24 service-shall-retire-
  - (4)(3) The retirement allowance must commence on the

first day of the month following the member's last day of membership service."

Section 6. Section 19-9-802, MCA, is amended to read:

"19-9-802. Election to serve additional years. (1) A

police officer who is eligible for service retirement under

19-9-801(1) or (2) may retire as of the time he becomes

eligible or may elect to serve an additional 1 to 10 years

as an active police officer--except-that-he-may-not-elect-to

serve-past-his-65th-birthday--the-mandatory-retirement-date.

(2) A police officer whose eligibility depends on 19-9-801(2) and who completes 20 years of service before reaching the age of 50 is considered to have elected to serve an additional year for each year between the completion of his 20th year of service and his 50th birthday and shall be paid the additional 1%, as prescribed in 19-9-804(2), for each such year."

Section 7. Section 19-9-804, MCA, is amended to read:

"19-9-804. Amount of retirement allowance. (1) A

police officer who is eligible under subsection (1) or (2)

of 19-9-801 and does not elect to serve any additional years

as an active police officer or—who—is—retired—under

19-9-801(3)—prior—to—reaching—20—years—of—service shall

receive a service retirement allowance equal to one—half his

final average salary.

(2) A police officer who is eligible for service

retirement after 20 years of service and who elects to serve additional years shall receive the allowance provided for in subsection (1) plus an additional 1% of such allowance per year of additional service, up to a maximum of 60% of the final average salary.

(3)--A--police-officer-who-is-retired-under-19-9-801(3)
and-who-was-theretofore-eligible-at-his-option-to-be-retired
under-subsection-(1)-or-(2)-of-19-9-801-but-elected-to-serve
additional-years-shall-be-paid-for-the-additional-years-over
his--original--eligibility--at--the---rate---prescribed---in
subsection-(2)-"

Section 8. Section 19-10-401, MCA, is amended to read:
"19-10-401. Eligibility for service retirement. The
following persons are eligible for the police retired list
of a city and shall retire as provided in this section:

- (1) A person who is employed by any city as a police officer on July 1, 1975, is eligible for the police retired list when he has completed 20 years or more in the aggregate as a probationary officer, a regular officer, or a special officer of the police department, in any capacity or rank.
- (2) A person who is first employed by a city as a police officer after July 1, 1975, is eligible for the police retired list when he has reached the age of 50 and has completed 20 years or more in the aggregate as a probationary officer, a regular officer, or a special

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officer of the police department, in any capacity or rank.

(3)--Police--officers,-whether-first-employed-before-or after-duly-1,-1975,-who-reach-the-age-of-65-while-in--active service--shall--pass--from--the--active--list-to-the-retired list-"

Section 9. Section 19-10-403, MCA, is amended to read: "19-10-403. Option of officer to remain on active list. (1) A police officer who is eligible for the retired list under subsection (1) or (2) of 19-10-401 may transfer, as of the time he becomes eligible, to the retired list or may elect to serve an additional 1 to 10 years as an active police officer --- except-that-he-may-not-elect-to-serve-past his-65th-birthday.

(2) A police officer whose eligibility depends on 19-10-401(2) and who completes 20 years of service before reaching the age of 50 is considered to have elected to serve an additional year for each year between the completion of his 20th year of service and his 50th birthday, and he shall be paid the additional 1% for each such year."

21 Section 10. Section 19-10-501, MCA, is amended to 22 read:

23 "19-10-501. Service retirement allowance. When a 24 police officer is transferred from the active list to the 25 retired list of a city, he shall thereafter receive monthly payments from the city's police retirement fund, as follows:

(1) A police officer who is eligible under

19-10-401(1) or (2) and does not elect to serve any

additional years as an active police officer or--who--is

placed--on--the--retired--list--under--19-10-401(3)-prior-to

reaching-20-years-of-service shall receive a sum equal to

one-half the base salary, excluding overtime and payments in

lieu of sick leave and annual leave, he was receiving as an active officer computed on the highest salary received in

any one month during his last year of active service.

(2) A police officer who is eligible after 20 years of service and who elects to serve additional years shall receive the payment provided for in subsection (1) plus an additional 1% of such payment per year of additional service, up to a maximum of 60% of the base salary, excluding overtime and payments in lieu of sick leave and annual leave, he was receiving as an active officer computed on the highest salary received in any one month during his last year of active service.

(3)--A-police-officer-who-is-placed-on-the-retired-list under--19-10-401(3)--and-who-was-theretofore-eligible-at-his option-to-be-placed-on-the-retired-list--under--19-10-401(1) or--(2)--but-elected-to-serve-additional-years-shall-be-paid for-the-additional-years-over-his--original--eligibility--at the-rate-prescribed-in-subsection-(2)-of-this-section-"

- Section 11. Section 19-13-701, MCA, is amended to 1 2 read:
- "19-13-701. Eligibility for service retirement --3 commencement of allowance. (1) The-following-members-are 4 eligible-for-service-retirement: 5
- tat--a A member who has reached age 50 and has 6 completed 10 years or more in the aggregate as a firefighter 7 in any capacity or rank; 8
- +b)--a--member-who-has-reached-mandatory-retirement-age 9 under--19-13-702--reqardless--of--his--number--of--years--of 10 service: is eligible for service 11
- +2+--The retirement allowance-must-commence commencing 12 on the first day of the month following the member's last 13 14 day of membership service.

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- (2) A member who terminates active service before age 50 and keeps his contributions on deposit under 19-13-304 is eligible for service retirement commencing on the first day of the month coinciding with or immediately following, if none coincides, the date on which he reaches age 50."
- Section 12. Section 19-13-704, MCA, is amended to 20 read: 21
- "19-13-704. Amount of retirement allowance. (1) (a) A 22 member hired before July 1, 1981, who is eligible under 23 19-13-701(1) and who elects to retire after completing 20 24 years of service and reaching age 50 as an active 25

- firefighter shall receive a service retirement allowance equal to one-half the monthly compensation last received by
- the member for his service as an active firefighter. A 3
- member who completes more than 20 years of service shall
- receive an additional 1% of his final monthly compensation
- for each year in excess of 20, up to a maximum of 60% of the
- monthly compensation last received by the member.

- (b) A member hired before July 1, 1981, who is eligible under 19-13-701(1) and who elects to retire after 10 completing 10 years or more of service but has not both 11 completed 20 years of service and reached age 50 as an active firefighter shall receive a service retirement 12 allowance equal to 2% of the monthly compensation last 13 14 received by the member for each year of service up to a maximum of 60% of his final monthly salary. 15
- 16 (i) If the member dies after he is permanently separated from service and before he both reaches age 50 and completes 20 years of service as an active firefighter, the 18 allowance prescribed in subsection (1)(b) must be made to 19 20 the surviving spouse beginning on the date the firefighter would have both reached his 50th birthday and completed 20 21 years of service as an active firefighter and terminating 22 23 upon the surviving spouse's death or remarriage. If there is no surviving spouse or if the surviving spouse dies or 24 25 remarries and if the firefighter leaves one or

- dependent children, the children are entitled to receive the allowance as long as they remain dependent as defined in 19-13-104.
- 4 (ii) If the firefighter dies after he both reaches age
  5 50 and commates 20 years of service as an active
  6 firefighter, the payments must be made to the surviving
  7 spouse or children as provided in subsection (1)(b)(i).
- 8 (2) A member hired on or after July 1, 1981, who:
- 9 (a) is eligible under 19-13-701(1) shall receive a
  10 service retirement allowance equal to 2% of his final
  11 average salary for each year of service up to a maximum of
  12 30 years of service:
- 13 (b)--is-eligible-under--19-13-701(2)--shall--receive--a

  14 service--retirement--allowance--equal--to-one-half-his-final

  15 average-salary;

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- (c)--is--retired--under--19-13-701(2)---and---who---was
  theretofore--eligible--at--his--option--to--be-retired-under
  19-13-701(1)-but-elected-to-serve-additional-years-shall--be
  paid--for-the-additional-years-over-his-original-eligibility
  at-the-rate-prescribed-in-subsection-(2)(a)."
- NEW SECTION. Section 13. Repealer. Sections 19-6-504, 19-9-803, 19-13-702, and 19-13-703, MCA, are repealed.
- NEW SECTION. Section 14. Extension of authority. Any existing authority of the public employees' retirement board to make rules on the subject of the provisions of this act

- is extended to the provisions of this act.
- 2 NEW SECTION. Section 15. Effective date. This act is
- 3 effective on passage and approval.

-End-

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#### APPROVED BY COMMITTEE ON STATE ADMINISTRATION

1	Senate BILL NO. 115
2	INTRODUCED BY Juhre Manning
3	BY REQUEST OF THE PUBLIC
4	EMPLOYEES' RETIREMENT BOARD
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6	A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE MANDATORY
7	AND COMPULSORY RETIREMENT AGE PROVISIONS FROM THE PUBLIC LAW
8	ENFORCEMENT AND THE MONTANA FIREFIGHTERS' UNIFIED RETIREMENT
9	SYSTEMS; CLARIFYING THE RETIREMENT DATE FOR THE
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11	19-8-601, 19-9-104, 19-9-801, 19-9-802, 19-9-804, 19-10-401,
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23	amounts deducted from the salary of a member, paid into the
24	account, and standing to his credit in the account, together

with the regular interest thereon.

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- (3) "Actuarial equivalent" means a benefit of equal value when computed on the basis of the actuarial tables in use by the system.
- 4 (4) "Beneficiary" means a person nominated to receive
  5 benefits under this chapter by a member's written
  6 designation, duly acknowledged and filed with the
  7 department.
- 8 (5) "Board" means the public employees' retirement 9 board provided for in 2-15-1009.
- 10 (6)--"Eompulsory-retirement-age"-means-60-years-of-age11 (7)(6) "Department" means the public employees'
  12 retirement division of the department of administration.
  - t0) "Final salary" means the average annual compensation received by a member, before any deductions have been made and exclusive of maintenance, allowances, and expenses, 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 years served. Lump-sum payments for sick leave and annual leave paid to an employee upon termination of employment may be used in the calculation of a retirement allowance 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 salary. A lump-sum payment may not be added to a single

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1 month's compensation. 2 (9)(8) "Member" means a person who has accumulated deductions in the account standing to his credit. 3 4 (18) (9) "Member's annuity" means payments for life derived from contributions made by the member. 6 (11) "Retired patrolman" means a person in receipt 7 of a retirement allowance under this chapter. 8 (11) "Retirement age" means the age at which a member retires after 25 years of creditable service with the 10 Montana highway patrol or-60-years-of-agez-whichever-occurs 11 first. 12 (13)(12) "Retirement allowance" means the state annuity 13 plus the member's annuity. 14 t±4;(13) "State annuity" means payments for life 15 derived from contributions made by the state of Montana." 16 Section 2. Section 19-7-501, MCA, is amended to read: 17 "19-7-501. Eliqibility and application for servic: 18 retirement -- commencement of allowance. (1) P sheriff in 19 service who has completed at least 25 years of service and 20 who has reached the age of 55 years may retire on a service 21 retirement allowance upon written application to the board, submitted not less than 30 days or more than 90 days from 22 23 the desired date of retirement. 24 †2)~-Retirement--is--computsory--for-- #my---momelus sheriff-at-age-65;-except-in-the-case-of-uncosheriffs: 25

first day of the month following the member's last day of 2 membership service." 3 Section 3. Section 19-8-601, MCA, is assended to read: "19-8-601. Time of retirement -- commencement 5 allowance. (1) Any member in service who has completed at least 20 years of creditable service and who has reached the age of 55 years may retire on service retirement allowance upon written application to the board setting forth at what 9 time, not less than 30 days or more than 90 days subsequent 10 11 to the filing thereof, he desires to be retired. 12 +2)--Retirement-shall-be-compulsory-at-age-60-

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- 23 (3) "Board" means the retirement board described in 24 2-15-1009.
- 25 (4) "Credited service" means the aggregate of a

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- 4 (a) who is unmarried and under 18 years of age; or
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  20 the--month-coinciding-with-or-immediately-following;-if-none
  21 coincides;-the-date-on-which-a-member-attains-age-65;
  - (11)(10) "Member" means a person who is employed by an employer as a police officer or who is entitled to a retirement allowance by virtue of his service to an employer as a police officer.

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- 21 ti6; (15) "Monthly compensation" means the wage,
  22 excluding overtime, holiday payments, shift differential
  23 payments, compensation time payments, and payments in lieu
  24 of sick leave and annual leave, a member receives as an
  25 active police officer.

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<pre> †±7†(16) Any reference to "municipality", "city", or</pre>
"town" includes those jurisdictions which, prior to the
effective date of a county-municipal consolidation, were
incorporated municipalities, subsequent districts created
for urban law enforcement services, or the entire county
included in the county-municipal consolidation.

(18)(17) "Plan" means the municipal police officers' retirement system created by this chapter.

fi9f(18) "Police officer" means a law enforcement
officer employed by an employer.

t20)(19) "Prior plan" means the local police reserve or retirement fund of a city which elects to join the plan under 19-9-107 or the statewide police reserve fund administered by the department of administration in accordance with Chapter 335, Laws of 1974.

t2t+(20) "Prior service" means a period of employment
as a police officer for which credit was granted to a member
under a prior plan and has been transferred to this plan.

19 (22)(21) "Retirement allowance" means the employer
20 annuity plus the member's annuity.

(23)(22) "Retirement date" means the date on which the first payment of the retirement, disability, or survivor benefits of a member or a beneficiary is payable.

24 (24)(23) "Surviving spouse" means the spouse married to 25 a member at the time of the member's death. the board, upon certification by a licensed and practicing physician, has determined that a member's disability is of such a nature as to permanently im, in his ability to discharge his normal duties as a police officer."

Section 5. Section 19-9-801, MCA, is amended to read:

"19-9-801. Eligibility for service retirement -
commencement of allowance. Members are eligible for retirement and shall retire as provided in this section:

- (1) A member who was employed by an employer as a police officer on July 1, 1975, is eligible to receive a service retirement allowance when he has completed 20 years or more in the aggregate as a probationary officer, a regular officer, or a special officer, in any capacity or rank.
- (2) A member who was or is first employed by an employer as a police officer after July 1, 1975, is eligible to receive a service retirement allowance when he has reached the age of 50 and has completed 20 years or more in the aggregate as a probationary officer, a regular officer, or a special officer, in any capacity or rank.
- (3)--Police--officers;-whether-first-employed-before-or after-July-1;-1975;-who-reach-the-age-of-65-while-in--active service-shall-retire;
- (4)(3) The retirement allowance must commence on the

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first day of the month following the member's last day of 1 membership service."

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Section 6. Section 19-9-802, MCA, is amended to read: "19-9-802. Election to serve additional years. (1) A police officer who is eligible for service retirement under 19-9-801(1) or (2) may retire as of the time he becomes eligible or may elect to serve an additional 1 to 10 years as an active police officer--except-that-he-may-not-elect-to serve-past-his-65th-birthday;-the-mandatory-retirement-date.

(2) A police officer whose eligibility depends on 19-9-801(2) and who completes 20 years of service before reaching the age of 50 is considered to have elected to serve an additional year for each year between the completion of his 20th year of service and his 50th birthday and shall be paid the additional 1%, as prescribed in 19-9-804(2), for each such year."

Section 7. Section 19-9-804, MCA, is amended to read: "19-9-804. Amount of retirement allowance. (1) A police officer who is eligible under subsection (1) or (2) of 19-9-801 and does not elect to serve any additional years as an active police officer or--who--is--retired--under 19-9-801(3)--prior--to--reaching--20--years-of-service shall receive a service retirement allowance equal to one-half his final average salary.

(2) A police officer who is eligible for service

1 retirement after 20 years of service and who elects to serve 2 additional years shall receive the allowance provided for in subsection (1) plus an additional 1% of such allowance per year of additional service, up to a maximum of 60% of the final average salary.

+3+--A--police-officer-who-is-retired-under-19-9-801(3) and-who-was-theretofore-eligible-at-his-option-to-be-retired under-subsection-(1)-or-(2)-of-19-9-801-but-elected-to-serve additional-years-shall-be-paid-for-the-additional-years-over his--original--eligibility--at--the---rate---prescribed---in subsection-(2);"

12 Section 8. Section 19-10-401, MCA, is amended to read: 13 "19-10-401. Eligibility for service retirement. The following persons are eligible for the police retired list 14 of a city and shall retire as provided in this section:

- (1) A person who is employed by any city as a police officer on July 1, 1975, is eligible for the police retired list when he has completed 20 years or more in the aggregate as a probationary officer, a regular officer, or a special officer of the police department, in any capacity or rank.
- (2) A person who is first employed by a city as a police officer after July 1, 1975, is eligible for the police retired list when he has reached the age of 50 and has completed 20 years or more in the aggregate as a probationary officer, a regular officer, or a special

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- officer of the police department, in any capacity or rank.
- 2 t3)--Police--officers;-whether-first-employed-before-or
- 3 after-July-17-19757-who-reach-the-age-of-65-while-in--active
- 4 service--shall--pass--from--the--active--list-to-the-retired
- 5 list."

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- 6 Section 9. Section 19-10-403, MCA, is amended to read:
- 7 "19-10-403. Option of officer to remain on active
  - list. (1) A police officer who is eligible for the retired
- 9 list under subsection (1) or (2) of 19-10-401 may transfer,
- 10 as of the time he becomes eligible, to the retired list or
- may elect to serve an additional 1 to 10 years as an active 11
- 12 police officer,--except-that-he-may-not-elect-to-serve-past
- 13 his-65th-birthday.
- 14 (2) A police officer whose eligibility depends on
- 15 19-10-401(2) and who completes 20 years of service before
  - reaching the age of 50 is considered to have elected to
- 17 serve an additional year for each year between the
- 18 completion of his 20th year of service and his 50th
- 19 birthday, and he shall be paid the additional 1% for each
- 20 such year."
- 21 Section 10. Section 19-10-501, MCA, is amended to
- 22 read:
- 23 "19-10-501. Service retirement allowance. When a
- 24 police officer is transferred from the active list to the
- 25 retired list of a city, he shall thereafter receive monthly

- payments from the city's police retirement fund, as follows:
- 2 (1) A police officer who is eligible under
  - 19-10-401(1) or (2) and does not elect to serve any additional years as an active police officer or--who--is
- 5 placed--on--the--retired--list--under--19-10-461f3}-prior-to
- reaching-20-years-of-service shall receive a sum equal to
- one-half the base salary, excluding overtime and payments in
- lieu of sick leave and annual leave, he was receiving as an
- active officer computed on the highest salary received in
- 10 any one month during his last year of active service.
- 11 (2) A police officer who is eligible after 20 years of
- 12 service and who elects to serve additional years shall
- receive the payment provided for in subsection (1) plus an
- additional 1% of such payment per year of additional 14
- service, up to a maximum of 60% of the base salary, 15
- 16 excluding overtime and payments in lieu of sick leave and
- annual leave, he was receiving as an active officer computed 17
- on the highest salary received in any one month during his 18
- 19 last year of active service.
- 20 (3)--A-police-officer-who-is-placed-on-the-retired-list
- 21 under--19-10-401/31--and-who-was-theretofore-eligible-at-his
- 22 option-to-be-placed-on-the-retired-list--under--19-10-401(1)
- or--+2}--but-elected-to-serve-additional-years-shall-be-paid 23
- for-the-additional-years-over-his--original--eligibility--at 24
- the-rate-prescribed-in-subsection-(2)-of-this-section-"

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- 1 Section 11. Section 19-13-701, MCA, is amended to 2 read:
- 3 "19-13-701. Eligibility for service retirement -4 commencement of allowance. (1) The-following-members-are
  5 eligible-for-service-retirement:

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- (a)--a A member who has reached age 50 and has completed 10 years or more in the aggregate as a firefighter in any capacity or rank?
- 12 <u>(2)--The retirement allowance-must-commence commencing</u>
  13 on the first day of the month following the member's last
  14 day of membership service.
  - (2) A member who terminates active service before age 50 and keeps his contributions on deposit under 19-13-304 is eligible for service retirement commencing on the first day of the month coinciding with or immediately following, if none coincides, the date on which he reaches age 50."
- 20 Section 12. Section 19-13-704, MCA, is amended to 21 read:
- "19-13-704. Amount of retirement allowance. (1) (a) A member hired before July 1, 1981, who is eligible under 19-13-701+1; and who elects to retire after completing 20 years of service and reaching age 50 as an active

- firefighter shall receive a service retirement allowance
  equal to one-half the monthly compensation last received by
  the member for his service as an active firefighter. A
  member who completes more than 20 years of service shall
  receive an additional 1% of his final monthly compensation
  for each year in excess of 20, up to a maximum of 60% of the
  monthly compensation last received by the member.
- (b) A member hired before July 1, 1981, who is eligible under 19-13-701(1) and who elects to retire after completing 10 years or more of service but has not both completed 20 years of service and reached age 50 as an active firefighter shall receive a service retirement allowance equal to 2% of the monthly compensation last received by the member for each year of service up to a maximum of 60% of his final monthly salary.
- (i) If the member dies after he is permanently separated from service and before he both reaches age 50 and completes 20 years of service as an active firefighter, the allowance prescribed in subsection (1)(b) must be made to the surviving spouse beginning on the date the firefighter would have both reached his 50th birthday and completed 20 years of service as an active firefighter and terminating upon the surviving spouse's death or remarriage. If there is no surviving spouse or if the surviving spouse dies or remarries and if the firefighter leaves one or more

- dependent children, the children are entitled to receive the allowance as long as they remain dependent as defined in 19-13-104.
  - (ii) If the firefighter dies after he both reaches age 50 and completes 20 years of service as an active firefighter, the payments must be made to the surviving spouse or children as provided in subsection (1)(b)(i).
    - (2) A member hired on or after July 1, 1981, who:

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- (a) is eligible under 19-13-701(1) shall receive a service retirement allowance equal to 2% of his final average salary for each year of service up to a maximum of 30 years of service;
- fb)--is-eligible-under--19-13-701(2)--shall--receive--a
  service--retirement--allowance--equal--to-one-half-his-final
  average-salary;
- (c)--is--retired--under--19-13-701(2)---and---who---was theretofore--eligible--at--his--option--to--be-retired-under 19-13-701(1)-but-elected-to-serve-additional-years-shall--be paid--for-the-additional-years-over-his-original-eligibility at-the-rate-prescribed-in-subsection-(2)(a)."
- 21 <u>NEW SECTION.</u> Section 13. Repealer. Sections 19-6-504, 22 19-9-803, 19-13-702, and 19-13-703, MCA, are repealed.
- 23 <u>NEW SECTION.</u> Section 14. Extension of authority. Any 24 existing authority of the public employees' retirement board 25 to make rules on the subject of the provisions of this act

- is extended to the provisions of this act.
- NEW SECTION. Section 15. Effective date. This act is
- 3 effective on passage and approval.

-End-

1	Senate BILL NO. 115
2	INTRODUCED BY Lukus Manning
3	BY REQUEST OF THE PUBLIC
4	EMPLOYEES' RETIREMENT BOARD
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE MANDATORY
7	AND COMPULSORY RETIREMENT AGE PROVISIONS FROM THE PUBLIC LAW
8	ENFORCEMENT AND THE MONTANA FIREFIGHTERS' UNIFIED RETIREMENT
9	SYSTEMS; CLARIFYING THE RETIREMENT DATE FOR THE
LO	FIREFIGHTERS' SYSTEM; AMENDING SECTIONS 19-6-101, 19-7-501,
11	19-8-601, 19-9-104, 19-9-801, 19-9-802, 19-9-804, 19-10-401,
12	19-10-403, 19-10-501, 19-13-701, AND 19-13-704, MCA;
13	REPEALING SECTIONS 19-6-504, 19-9-803, 19-13-702, AND
14	19-13-703, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
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16	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
17	Section 1. Section 19-6-101, MCA, is amended to read:
18	"19-6-101. Definitions. Unless the context requires
19	otherwise, the following definitions apply in this chapter:
20	(1) "Account" means the Montana highway patrolmen's
21	retirement pension trust fund.
22	(2) "Accumulated deductions" means the total of the
23	amounts deducted from the salary of a member, paid into the
24	account, and standing to his credit in the account, together
25	with the regular interest thereon.

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3	use by	the s	system.									

- 4 (4) "Beneficiary" means a person nominated to receive
  5 benefits under this chapter by a member's written
  6 designation, duly acknowledged and filed with the
  7 department.
- 8 (5) "Board" means the public employees' retirement 9 board provided for in 2-15-1009.
- 10 (6)--"Compulsory-retirement-age"-means-60-years-of-age11 (7)(6) "Department" means the public employees'
  12 retirement division of the department of administration.
  - (8)(7) "Final salary" means the average annual compensation received by a member, before any deductions have been made and exclusive of maintenance, allowances, and expenses, 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 years served. Lump-sum payments for sick leave and annual leave paid to an employee upon termination of employment may be used in the calculation of a retirement allowance only to the extent that they are used to replace,
- 23 on a month for month basis, the normal compensation for a
- 24 month or months included in the calculation of the final
- 25 salary. A lump-sum payment may not be added to a single

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1 month's compensation.

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- t9†(8) "Member" means a person who has accumulated
   deductions in the account standing to his credit.
- 4 (10)(9) "Member's annuity" means payments for life
  5 derived from contributions made by the member.
- - ##2}(11) "Retirement age" means the age at which a
    member retires after 25 years of creditable service with the
    Montana highway patrol or-60-years-of-age; -whichever-occurs
    first.
- 12 †±3†(12) "Retirement allowance" means the state annuity
  13 plus the member's annuity.
- 14 (14)(13) "State annuity" means payments for life 15 derived from contributions made by the state of Montana."
- 16 Section 2. Section 19-7-501, MCA, is amended to read: 17 "19-7-501. Eligibility and application for service retirement -- commencement of allowance. (1) A sheriff in 18 service who has completed at least 25 years of service and 19 20 who has reached the age of 55 years may retire on a service retirement allowance upon written application to the board, 21 22 submitted not less than 30 days or more than 90 days from 23 the desired date of retirement.
  - (2)--Retirement--is--compulsory--for---any---nonelected
    sheriff-at-age-657-except-in-the-case-of-undersheriffs-

- 1 (3)(2) The retirement allowance must commence on the 2 first day of the month following the member's last day of 3 membership service."
- 4 Section 3. Section 19-8-601, MCA, is amended to read:
- 5 "19-8-601. Time of retirement -- commencement of
- 6 allowance. (1) Any member in service who has completed at
  - least 20 years of creditable service and who has reached the
- 8 age of 55 years may retire on service retirement allowance
- 9 upon written application to the board setting forth at what
- 10 time, not less than 30 days or more than 90 days subsequent
- 11 to the filing thereof, he desires to be retired.
- 12 (2)--Retirement-shall-be-compulsory-at-age-60-
- 13 (3)(2) The retirement allowance must commence on the
  14 first day of the month following the member's last day of
  15 covered employment."
- 16 Section 4. Section 19-9-104, MCA, is amended to read:
- 17 "19-9-104. Definitions. Unless the context requires
- 18 otherwise, the following definitions apply in this chapter:
- 19 (1) "Administrator" means the public employees'
- 20 retirement division of the department of administration.
- 21 (2) "Base salary" means the sum of the monthly
- 22 compensations for each month in a given calendar year.
- 23 (3) "Board" means the retirement board described in 24 2-15-1009.
- 25 (4) "Credited service" means the aggregate of a

member's prior service and membership service.

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- 2 (5) "Dependent child" means a child of a deceased member: 3
- 4 (a) who is unmarried and under 18 years of age: or
- (b) who is unmarried, under 24 years of age, and 5 attending accredited postsecondary educational 7 institution as a full-time student in anticipation of receiving a certificate or degree.
  - (6) "Employer" means any city which participated in a prior plan or which elects to join this plan under 19-9-107.
  - (7) "Employer annuity" means monthly payments for life derived from employer and state contributions.
  - (8) "Final average salary" means the monthly compensation of a member, averaged over the last 36 months of his active service or, in the event he has not been a member that long, over the period of his membership.
- 17 (9) "Fund" means the pension trust fund in the treasury system designated for the use of the plan.
  - (10)-"Mandatory-retirement-date"-means-the-first-day-of the--month-coinciding-with-or-immediately-following,-if-none coincides--the-date-on-which-a-member-attains-age-65-
- 22 (11) "Member" means a person who is employed by an 23 employer as a police officer or who is entitled to a retirement allowance by virtue of his service to an employer as a police officer.

- 1 (11) "Member contributions" means the total of the deductions from the compensation of a member, either made during a period of active membership hereunder or made under a prior plan and transferred to this plan, standing to his
- (12) "Member's annuity" means monthly payments for life derived from member contributions.

credit, together with the interest thereon.

- 8 ti47(13) "Membership service" means a period of employment with an employer occurring after June 30, 1977, 10 during which the withholdings required by this chapter have been made from a member's monthly compensation and credited 11 to his member contributions account. Pro rata credit shall 12 be granted for employment on a part-time basis or for 13 14 employment over a period of less than a complete fiscal 15 year.
- 16 (±5+(14) "Minimum retirement date" "normal 17 retirement date" means the first day of the month coinciding with or immediately following, if none coincides, the date 18 on which a member becomes both age 50 or older and completes 19 20 20 or more years of credited service.
- 21 (16)(15) "Monthly compensation" means the wage, excluding overtime, holiday payments, shift differential 22 23 payments, compensation time payments, and payments in lieu of sick leave and annual leave, a member receives as an 24 25 active police officer.

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(17)(16) Any reference to "municipality", "city", or "town" includes those jurisdictions which, prior to the effective date of a county-municipal consolidation, were incorporated municipalities, subsequent districts created for urban law enforcement services, or the entire county included in the county-municipal consolidation.

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fightharpoonup (18) "Police officer" means a law enforcement
officer employed by an employer.

(20)(19) "Prior plan" means the local police reserve or retirement fund of a city which elects to join the plan under 19-9-107 or the statewide police reserve fund administered by the department of administration in accordance with Chapter 335, Laws of 1974.

(21)(20) "Prior service" means a period of employment as a police officer for which credit was granted to a member under a prior plan and has been transferred to this plan.

19 (22)(21) "Retirement allowance" means the employer
20 annuity plus the member's annuity.

(23)(22) "Retirement date" means the date on which the first payment of the retirement, disability, or survivor benefits of a member or a beneficiary is payable.

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24 (24)(23) "Surviving spouse" means the spouse married to
25 a member at the time of the member's death.

t25)(24) "Totally and permanently disabled" means that the board, upon certification by a licensed and practicing physician, has determined that a member's disability is of such a nature as to permanently impair his ability to discharge his normal duties as a police officer."

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Section 5. Section 19-9-801, MCA, is amended to read:

"19-9-801. Eligibility for service retirement -
commencement of allowance. Members are eligible for retirement and shall retire as provided in this section:

- 10 (1) A member who was employed by an employer as a
  11 police officer on July 1, 1975, is eligible to receive a
  12 service retirement allowance when he has completed 20 years
  13 or more in the aggregate as a probationary officer, a
  14 regular officer, or a special officer, in any capacity or
  15 rank.
- 16 (2) A member who was or is first employed by an
  17 employer as a police officer after July 1, 1975, is eligible
  18 to receive a service retirement allowance when he has
  19 reached the age of 50 and has completed 20 years or more in
  20 the aggregate as a probationary officer, a regular officer,
  21 or a special officer, in any capacity or rank.
  - (3)--Police--officersy-whether-first-employed-before-or after-duly-ly-1975y-who-reach-the-age-of-65-while-in--active service-shall-retire-
- 25 (4)(3) The retirement allowance must commence on the

first day of the month following the member's last day of membership service."

section 6. Section 19-9-802, MCA, is amended to read:

"19-9-802. Election to serve additional years. (1) A

police officer who is eligible for service retirement under

19-9-801(1) or (2) may retire as of the time he becomes

eligible or may elect to serve an additional 1 to 10 years

as an active police officery-except-that-he-may-not-elect-to

serve-past-his-65th-birthday, the-mandatory-retirement-date.

(2) A police officer whose eligibility depends on 19-9-801(2) and who completes 20 years of service before reaching the age of 50 is considered to have elected to serve an additional year for each year between the completion of his 20th year of service and his 50th birthday and shall be paid the additional 1%, as prescribed in 19-9-804(2), for each such year."

Section 7. Section 19-9-804, MCA, is amended to read:

"19-9-804. Amount of retirement allowance. (1) A

police officer who is eligible under subsection (1) or (2)

of 19-9-801 and does not elect to serve any additional years

as an active police officer or-who-is-retired-under

19-9-801(3)--prior-to-reaching-28-years-of-service shall

receive a service retirement allowance equal to one-half his

final average salary.

(2) A police officer who is eligible for service

retirement after 20 years of service and who elects to serve
additional years shall receive the allowance provided for in
subsection (1) plus an additional 1% of such allowance per
year of additional service, up to a maximum of 60% of the
final average salary.

(3)--A--police-officer-who-is-retired-under-19-9-801(3) and-who-was-theretofore-eligible-at-his-option-to-be-retired under-subsection-(1)-or-(2)-of-19-9-801-but-elected-to-serve additional-years-shall-be-paid-for-the-additional-years-over his--original--eligibility--at--the---rate---prescribed---in subsection-(2)-"

Section 8. Section 19-10-401, MCA, is amended to read:
"19-10-401. Eligibility for service retirement. The
following persons are eligible for the police retired list
of a city and shall retire as provided in this section:

- (1) A person who is employed by any city as a police officer on July 1, 1975, is eligible for the police retired list when he has completed 20 years or more in the aggregate as a probationary officer, a regular officer, or a special officer of the police department, in any capacity or rank.
- (2) A person who is first employed by a city as a police officer after July 1, 1975, is eligible for the police retired list when he has reached the age of 50 and has completed 20 years or more in the aggregate as a probationary officer, a regular officer, or a special

officer of the police department, in any capacity or rank.

his-65th-birthday.

- (3)--Police--officers,-whether-first-employed-before-or after-July-1,-1975,-who-reach-the-age-of-65-while-in--active service--shall--pass--from--the--active--list-to-the-retired list-"
- Section 9. Section 19-10-403, MCA, is amended to read:

  "19-10-403. Option of officer to remain on active

  list. (1) A police officer who is eligible for the retired

  list under subsection (1) or (2) of 19-10-401 may transfer,

  as of the time he becomes eligible, to the retired list or

  may elect to serve an additional 1 to 10 years as an active

  police officer,--except-that-he-may-not-elect-to-serve-past
  - (2) A police officer whose eligibility depends on 19-10-401(2) and who completes 20 years of service before reaching the age of 50 is considered to have elected to serve an additional year for each year between the completion of his 20th year of service and his 50th birthday, and he shall be paid the additional 1% for each such year."
- 21 Section 10. Section 19-10-501, MCA, is amended to 22 read:
- 719-10-501. Service retirement allowance. When a police officer is transferred from the active list to the retired list of a city, he shall thereafter receive monthly

- payments from the city's police retirement fund, as follows:
- 2 (1) A police officer who is eligible under
  3 19-10-401(1) or (2) and does not elect to serve any
  4 additional years as an active police officer or--who--is
  5 placed--on--the--retired--list--under--19-10-401(3)-prior-to
  6 reaching-20-years-of-service shall receive a sum equal to
  7 one-half the base salary, excluding overtime and payments in
  8 lieu of sick leave and annual leave, he was receiving as an
  9 active officer computed on the highest salary received in
  10 any one month during his last year of active service.
  - (2) A police officer who is eligible after 20 years of service and who elects to serve additional years shall receive the payment provided for in subsection (1) plus an additional 1% of such payment per year of additional service, up to a maximum of 60% of the base salary, excluding overtime and payments in lieu of sick leave and annual leave, he was receiving as an active officer computed on the highest salary received in any one month during his last year of active service.
  - (3)--A-police-officer-who-is-placed-on-the-retired-list under--19-10-401(3)--and-who-was-theretofore-eligible-at-his option-to-be-placed-on-the-retired-list--under--19-10-401(1) or--(2)--but-elected-to-serve-additional-years-shall-be-paid for-the-additional-years-over-his--original--eligibility--at the-rate-prescribed-in-subsection-(2)-of-this-section-"

- Section 11. Section 19-13-701, MCA, is amended to 1 2 read:
- "19-13-701. Eligibility for service retirement --3 commencement of allowance. (1) The-following-members-are eligible-for-service-retirement: 5
- ta) -- a A member who has reached age 50 and has 6 completed 10 years or more in the aggregate as a firefighter 7 in any capacity or rank; 8
- 9 +b1--a--member-who-has-reached-mandatory-retirement-age under--19-13-702--regardless--of--his--number--of--years--of 10 service: is eligible for service 11
- +2)--The retirement allowance-must-commence commencing 12 on the first day of the month following the member's last 13 day of membership service. 14
- (2) A member who terminates active service before age 15 50 and keeps his contributions on deposit under 19-13-304 is 16 eligible for service retirement commencing on the first day 17 of the month coinciding with or immediately following, if 18 none coincides, the date on which he reaches age 50." 19
- Section 12. Section 19-13-704, MCA, is amended to 20 21 read:
- "19-13-704. Amount of retirement allowance. (1) (a) A 22 member hired before July 1, 1981, who is eligible under 23 19-13-701(1) and who elects to retire after completing 20 24 years of service and reaching age 50 as an active 25

- firefighter shall receive a service retirement allowance
- equal to one-half the monthly compensation last received by
- the member for his service as an active firefighter. A 7
- member who completes more than 20 years of service shall
- receive an additional 1% of his final monthly compensation
- for each year in excess of 20, up to a maximum of 60% of the
- monthly compensation\_last received by the member.
- (b) A member hired before July 1, 1981, who is eligible under 19-13-701(++) and who elects to retire after 10 completing 10 years or more of service but has not both completed 20 years of service and reached age 50 as an 11 12 active firefighter shall receive a service retirement
- allowance equal to 2% of the monthly compensation last 13
- 14 received by the member for each year of service up to a
- maximum of 60% of his final monthly salary. 15

- 16 (i) If the member dies after he is permanently
- 17 separated from service and before he both reaches age 50 and completes 20 years of service as an active firefighter, the
- 19 allowance prescribed in subsection (1)(b) must be made to
- 20 the surviving spouse beginning on the date the firefighter
- would have both reached his 50th birthday and completed 20 21 22 years of service as an active firefighter and terminating
- 23 upon the surviving spouse's death or remarriage. If there is
- no surviving spouse or if the surviving spouse dies or 24
  - remarries and if the firefighter leaves one or

- dependent children, the children are entitled to receive the allowance as long as they remain dependent as defined in 19-13-104.
- 4 (ii) If the firefighter dies after he both reaches age 5 50 and completes 20 years of service as an active 6 firefighter, the payments must be made to the surviving 7 spouse or children as provided in subsection (1)(b)(i).
  - (2) A member hired on or after July 1, 1981, who:

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- 9 (a) is eligible under 19-13-701(1) shall receive a
  10 service retirement allowance equal to 2% of his final
  11 average salary for each year of service up to a maximum of
  12 30 years of service;
- 13 (b)--is-eligible-under--19-i3-701(2)--shall--receive--a

  14 service--retirement--allowance--equal--to-one-half-his-final

  15 average-salary;
  - tc)--is--retired--under--19-13-701(2)---and---who---was
    theretofore--eligible--at--his--option--to--be-retired-under
    19-13-701(1)-but-elected-to-serve-additional-years-shall--be
    paid--for-the-additional-years-over-his-original-eligibility
    at-the-rate-prescribed-in-subsection-121(a)."
- NEW SECTION. Section 13. Repealer. Sections 19-6-504, 19-9-803, 19-13-702, and 19-13-703, MCA, are repealed.
- NEW SECTION. Section 14. Extension of authority. Any existing authority of the public employees' retirement board to make rules on the subject of the provisions of this act

- is extended to the provisions of this act.
- NEW SECTION. Section 15. Effective date. This act is
- 3 effective on passage and approval.

-End-

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2	INTRODUCED BY MANNING
3	BY REQUEST OF THE PUBLIC
4	EMPLOYEES' RETIREMENT BOARD
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE MANDATORY
7	AND COMPULSORY RETIREMENT AGE PROVISIONS FROM THE PUBLIC LAW
8	ENFORCEMENT AND THE MONTANA FIREFIGHTERS' UNIFIED RETIREMENT
9	SYSTEMS; CLARIFYING THE RETIREMENT DATE FOR THE
10	FIREFIGHTERS' SYSTEM; AMENDING SECTIONS 19-6-101, 19-7-501,
11	19-8-601, 19-9-104, 19-9-801, 19-9-802, 19-9-804, 19-10-401,
12	19-10-403, 19-10-501, 19-13-701, AND 19-13-704, MCA;
13	REPEALING SECTIONS 19-6-504, 19-9-803, 19-13-702, AND
14	19-13-703, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
15	
16	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
17	Section 1. Section 19-6-101, MCA, is amended to read:
18	"19-6-101. Definitions. Unless the context requires
19	otherwise, the following definitions apply in this chapter:
20	(1) "Account" means the Montana highway patrolmen's
21	retirement pension trust fund.
22	(2) "Accumulated deductions" means the total of the
23	amounts deducted from the salary of a member, paid into the
24	account, and standing to his credit in the account, together
25	with the regular interest thereon.

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- 1 (3) "Actuarial equivalent" means a benefit of equal
  2 value when computed on the basis of the actuarial tables in
  3 use by the system.
- 4 (4) "Beneficiary" means a person nominated to receive
  5 benefits under this chapter by a member's written
  6 designation, duly acknowledged and filed with the
  7 department.
- 8 (5) "Board" means the public employees' retirement9 board provided for in 2-15-1009.
  - f6}--mecompulsory-retirement-agem-means-60-years-of-ager
    f7)(6) "Department" means the public employees'
    retirement division of the department of administration.
  - t0)(7) "Final salary" means the average annual compensation received by a member, before any deductions have been made and exclusive of maintenance, allowances, and expenses, 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 years served. Lump-sum payments for sick leave and annual leave paid to an employee upon termination of employment may be used in the calculation of a retirement allowance 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 salary. A lump-sum payment may not be added to a single

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month's compensation.

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2 (9)(8) "Member" means a person who has accumulated
3 deductions in the account standing to his credit.

4 (10) "Member's annuity" means payments for life 5 derived from contributions made by the member.

##27(11) "Retirement age" means the age at which a member retires after 25 years of creditable service with the Montana highway patrol or-60-years-of-age; -whichever-occurs first.

(±3)(12) "Retirement allowance" means the state annuity plus the member's annuity.

(±4)(13) "State annuity" means payments for life derived from contributions made by the state of Montana."

Section 2. Section 19-7-501, MCA, is amended to read:
"19-7-501. Eligibility and application for service
retirement -- commencement of allowance. (1) A sheriff in
service who has completed at least 25 years of service and
who has reached the age of 55 years may retire on a service
retirement allowance upon written application to the board,
submitted not less than 30 days or more than 90 days from

submitted not less than 30 days or more than 90 days from
the desired date of retirement.

24 (2)--Retirement--is--compulsory--for---any---nonelected
sheriff-at-age-65;-except-in-the-case-of-undersheriffs;

1 (3)(2) The retirement allowance must commence on the 2 first day of the month following the member's last day of 3 membership service."

Section 3. Section 19-8-601, MCA, is amended to read:

"19-8-601. Time of retirement -- commencement of
allowance. (1) Any member in service who has completed at
least 20 years of creditable service and who has reached the
age of 55 years may retire on service retirement allowance
upon written application to the board setting forth at what
time, not less than 30 days or more than 90 days subsequent
to the filing thereof, he desires to be retired.

12 (2)--Retirement-shall-be-compulsory-at-age-60:

13 t3;(2) The retirement allowance must commence on the 14 first day of the month following the member's last day of 15 covered employment."

Section 4. Section 19-9-104, MCA, is amended to read:

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

19 (1) "Administrator" means the public employees'
20 retirement division of the department of administration.

21 (2) "Base salary" means the sum of the monthly 22 compensations for each month in a given calendar year.

23 (3) "Board" means the retirement board described in 24 2-15-1009.

25 (4) "Credited service" means the aggregate of a

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member's prior service and membership service.

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- 2 (5) "Dependent child" means a child of a deceased
  3 member:
  - (a) who is unmarried and under 18 years of age; or
- 5 (b) who is unmarried, under 24 years of age, and 6 attending an accredited postsecondary educational 7 institution as a full-time student in anticipation of 8 receiving a certificate or degree.
- 9 (6) "Employer" means any city which participated in a 10 prior plan or which elects to join this plan under 19-9-107.
  - (7) "Employer annuity" means monthly payments for life derived from employer and state contributions.
  - (8) "Final average salary" means the monthly compensation of a member, averaged over the last 36 months of his active service or, in the event he has not been a member that long, over the period of his membership.
- 17 (9) "Fund" means the pension trust fund in the 18 treasury system designated for the use of the plan.
- 19 (10)-"Mandatory-retirement-date"-means-the-first-day-of
  20 the--month-coinciding-with-or-immediately-followingy-if-none
  21 coincidesy-the-date-on-which-a-member-attains-age-65;
- the first service to an employer as a police officer or who is employed by an employer as a police officer or who is entitled to a retirement allowance by virtue of his service to an employer as a police officer.

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deductions from the compensation of a member, either made during a period of active membership hereunder or made under

a prior plan and transferred to this plan, standing to his

(12)(11) "Member contributions" means the total of the

5 credit, together with the interest thereon.

6 (±3)(12) "Member's annuity" means monthly payments for
7 life derived from member contributions.

8 (14)(13) "Membership service" means a period employment with an employer occurring after June 30, 1977. 10 during which the withholdings required by this chapter have been made from a member's monthly compensation and credited 11 to his member contributions account. Pro rata credit shall 12 13 be granted for employment on a part-time basis or for 14 employment over a period of less than a complete fiscal 15 year.

16 (±5†(14) "Minimum retirement date" or "normal 17 retirement date" means the first day of the month coinciding 18 with or immediately following, if none coincides, the date 19 on which a member becomes both age 50 or older and completes 20 20 or more years of credited service.

21 (±6)(15) "Monthly compensation" means the wage,
22 excluding overtime, holiday payments, shift differential
23 payments, compensation time payments, and payments in lieu
24 of sick leave and annual leave, a member receives as an
25 active police officer.

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1 (17) (16) Any reference to "municipality", "city", or
2 "town" includes those jurisdictions which, prior to the
3 effective date of a county-municipal consolidation, were
4 incorporated municipalities, subsequent districts created
5 for urban law enforcement services, or the entire county
6 included in the county-municipal consolidation.

fife;(17) "Plan" means the municipal police officers'
retirement system created by this chapter.

9 (18) "Police officer" means a law enforcement 10 officer employed by an employer.

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f20)(19) "Prior plan" means the local police reserve or retirement fund of a city which elects to join the plan under 19-9-107 or the statewide police reserve fund administered by the department of administration in accordance with Chapter 335, Laws of 1974.

(21)(20) "Prior service" means a period of employment as a police officer for which credit was granted to a member under a prior plan and has been transferred to this plan.

19 t22)(21) "Retirement allowance" means the employer
20 annuity plus the member's annuity.

(22) "Retirement date" means the date on which the first payment of the retirement, disability, or survivor benefits of a member or a beneficiary is payable.

24 (24)(23) "Surviving spouse" means the spouse married to
25 a member at the time of the member's death.

1 (25)(24) "Totally and permanently disabled" means that
2 the board, upon certification by a licensed and practicing
3 physician, has determined that a member's disability is of
4 such a nature as to permanently impair his ability to
5 discharge his normal duties as a police officer."

6 Section 5. Section 19-9-801, MCA, is amended to read:
7 "19-9-801. Eligibility for service retirement -8 commencement of allowance. Members are eligible for
9 retirement and shall retire as provided in this section:

- 10 (1) A member who was employed by an employer as a
  11 police officer on July 1, 1975, is eligible to receive a
  12 service retirement allowance when he has completed 20 years
  13 or more in the aggregate as a probationary officer, a
  14 regular officer, or a special officer, in any capacity or
  15 rank.
- 16 (2) A member who was or is first employed by an
  17 employer as a police officer after July 1, 1975, is eligible
  18 to receive a service retirement allowance when he has
  19 reached the age of 50 and has completed 20 years or more in
  20 the aggregate as a probationary officer, a regular officer,
  21 or a special officer, in any capacity or rank.
- 22 (3)--Police--officers; whether-first-employed-before-or 23 after-July-1; 1975; who-reach-the-age-of-65-while-in--active 24 service-shall-retire:
- 25 (4)(3) The retirement allowance must commence on the

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first day of the month following the member's last day of membership service."

Section 6. Section 19-9-802, MCA, is amended to read:

"19-9-802. Election to serve additional years. (1) A

police officer who is eligible for service retirement under

19-9-801(1) or (2) may retire as of the time he becomes

eligible or may elect to serve an additional 1 to 10 years

as an active police officer, except that he may not elect to

serve-past his-65th birthday, the mandatory retirement date.

(2) A police officer whose eligibility depends on 19-9-801(2) and who completes 20 years of service before reaching the age of 50 is considered to have elected to serve an additional year for each year between the completion of his 20th year of service and his 50th birthday and shall be paid the additional 1%, as prescribed in 19-9-804(2), for each such year."

Section 7. Section 19-9-804, MCA, is amended to read:
"19-9-804. Amount of retirement allowance. (1) A

police officer who is eligible under subsection (1) or (2)
of 19-9-801 and does not elect to serve any additional years
as an active police officer or-who-is-retired-under
19-9-801(3)--prior-to-reaching-20-years-of-service shall
receive a service retirement allowance equal to one-half his
final average salary.

(2) A police officer who is eligible for service

retirement after 20 years of service and who elects to serve additional years shall receive the allowance provided for in subsection (1) plus an additional 1% of such allowance per year of additional service, up to a maximum of 60% of the final average salary.

(3)--A--police-officer-who-is-retired-under-19-9-801(3) and-who-was-theretofore-eligible-at-his-option-to-be-retired under-subsection-(1)-or-(2)-of-19-9-801-but-elected-to-serve additional-years-shall-be-paid-for-the-additional-years-over his--original--eligibility--at--the---rate---prescribed---in subsection-(2)-"

Section 8. Section 19-10-401, MCA, is amended to read:
"19-10-401. Eligibility for service retirement. The
following persons are eligible for the police retired list
of a city and shall retire as provided in this section:

- (1) A person who is employed by any city as a police officer on July 1, 1975, is eligible for the police retired list when he has completed 20 years or more in the aggregate as a probationary officer, a regular officer, or a special officer of the police department, in any capacity or rank.
- (2) A person who is first employed by a city as a police officer after July 1, 1975, is eligible for the police retired list when he has reached the age of 50 and has completed 20 years or more in the aggregate as a probationary officer, a regular officer, or a special

- officer of the police department, in any capacity or rank.

  (3)--Police--officersy-whether-first-employed-before-or

  after-duly-1y-1975y-who-reach-the-age-of-65-while-in--active
- 4 service--shall--pass--from--the--active--list-to-the-retired
- 5 list-"

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- 6 Section 9. Section 19-10-403, MCA, is amended to read:
- 7 "19-10-403. Option of officer to remain on active
- list. (1) A police officer who is eligible for the retired
- 9 list under subsection (1) or (2) of 19-10-401 may transfer,
- as of the time he becomes eligible, to the retired list or
- may elect to serve an additional 1 to 10 years as an active
  - police officery--except-that-he-may-not-elect-to-serve-past
- 13 his-65th-birthday.
- 14 (2) A police officer whose eligibility depends on
- 15 19-10-401(2) and who completes 20 years of service before
  - reaching the age of 50 is considered to have elected to
  - serve an additional year for each year between the
- 18 completion of his 20th year of service and his 50th
- 19 birthday, and he shall be paid the additional 1% for each
- 20 such year."
- 21 Section 10. Section 19-10-501, MCA, is amended to
- 22 read:
- 23 "19-10-501. Service retirement allowance. When a
- 24 police officer is transferred from the active list to the
- 25 retired list of a city, he shall thereafter receive monthly

payments from the city's police retirement fund, as follows:

- 2 (1) A police officer who is eligible under
- 3 19-10-401(1) or (2) and does not elect to serve any
- 4 additional years as an active police officer or--who--is
- 5 placed--on--the--retired--list--under--19-10-401(3)-prior-to
- 6 reaching-20-years-of-service shall receive a sum equal to
- 7 one-half the base salary, excluding overtime and payments in
- 8 lieu of sick leave and annual leave, he was receiving as an
- 9 active officer computed on the highest salary received in
- 10 any one month during his last year of active service.
- 11 (2) A police officer who is eligible after 20 years of
- 12 service and who elects to serve additional years shall
- 13 receive the payment provided for in subsection (1) plus an
- 14 additional 1% of such payment per year of additional
- 15 service, up to a maximum of 60% of the base salary,
- 16 excluding overtime and payments in lieu of sick leave and
- 17 annual leave, he was receiving as an active officer computed
- 18 on the highest salary received in any one month during his
- 19 last year of active service.

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- 20 (3)--A-police-officer-who-is-placed-on-the-retired-list
- 21 under--19-10-401(3)--and-who-was-theretofore-eligible-at-his
- 22 option-to-be-placed-on-the-retired-list--under--19-10-401(1)
- 23 or--(2)--but-elected-to-serve-additional-years-shall-be-paid
  - for-the-additional-years-over-his--original--eligibility--at
  - the-rate-prescribed-in-subsection-(2)-of-this-section-"

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- Section 11. Section 19-13-701, MCA, is amended to read:
- 3 "19-13-701. Eligibility for service retirement -4 commencement of allowance. (1) The-following-members-are
  5 eligible-for-service-retirement:
- 6 ta; -a A member who has reached age 50 and has
  7 completed 10 years or more in the aggregate as a firefighter
  8 in any capacity or rank;
- 9 (b)--a--member-who-has-reached-mandatory-retirement-age
  10 under--19-13-702--regardless--of--his--number--of--years--of
  11 service- is eligible for service
- 12 (2)--The retirement allowance-must-commence commencing
  13 on the first day of the month following the member's last
  14 day of membership service.
- 15 (2) A member who terminates active service before age
  16 50 and keeps his contributions on deposit under 19-13-304 is
  17 eliqible for service retirement commencing on the first day
  18 of the month coinciding with or immediately following, if
  19 none coincides, the date on which he reaches age 50."
- 20 Section 12. Section 19-13-704, MCA, is amended to read:
- "19-13-704. Amount of retirement allowance. (1) (a) A
  member hired before July 1, 1981, who is eligible under
  19-13-701(+) and who elects to retire after completing 20
  years of service and reaching age 50 as an active

- firefighter shall receive a service retirement allowance
- equal to one-half the monthly compensation last received by
- 3 the member for his service as an active firefighter. A
- 4 member who completes more than 20 years of service shall
- 5 receive an additional 1% of his final monthly compensation
  - for each year in excess of 20, up to a maximum of 60% of the
- 7 monthly compensation last received by the member.
- 8 (b) A member hired before July 1, 1981, who is 9 eligible under 19-13-701(1) and who elects to retire after 10 completing 10 years or more of service but has not both
- 11 completed 20 years of service and reached age 50 as an
- 12 active firefighter shall receive a service retirement
- allowance equal to 2% of the monthly compensation last received by the member for each year of service up to a
  - received by the member for each year of service up to a
- 15 maximum of 60% of his final monthly salary.
- 16 (i) If the member dies after he is permanently
  17 separated from service and before he both reaches age 50 and
- 18 completes 20 years of service as an active firefighter, the
- 19 allowance prescribed in subsection (1)(b) must be made to
- 20 the surviving spouse beginning on the date the firefighter
- 21 would have both reached his 50th birthday and completed 20
- 22 years of service as an active firefighter and terminating
- 23 upon the surviving spouse's death or remarriage. If there is
- 24 no surviving spouse or if the surviving spouse dies or
- 25 remarries and if the firefighter leaves one or more

- dependent children, the children are entitled to receive the allowance as long as they remain dependent as defined in 19-13-104.
  - (ii) If the firefighter dies after he both reaches age 50 and completes 20 years of service as an active firefighter, the payments must be made to the surviving spouse or children as provided in subsection (1)(b)(i).
    - (2) A member hired on or after July 1, 1981, who:
  - fa) is eligible under 19-13-701(t) shall receive a
    service retirement allowance equal to 2% of his final
    average salary for each year of service up to a maximum of
    30 years of service;

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- 13 (b)--is-eligible-under--19-13-701(2)--shall--receive--a

  14 service--retirement--allowance--equal--to-one-half-his-final

  15 average-salary;
  - (c)--is--retired--under--19-13-701(2)---and---who---was theretofore--eligible--at--his--option--ts--be-retired-under 19-13-701(1)-but-elected-to-serve-additional-years-shall--be paid--for-the-additional-years-over-his-original-eligibility at-the-rate-prescribed-in-subsection-(2)(a)."
- 21 <u>NEW SECTION.</u> Section 13. Repealer. Sections 19-6-504, 22 19-9-803, 19-13-702, and 19-13-703, MCA, are repealed.
- NEW SECTION. Section 14. Extension of authority. Any existing authority of the public employees' retirement board to make rules on the subject of the provisions of this act

- is extended to the provisions of this act.
- NEW SECTION. Section 15. Effective date. This act is
- 3 effective on passage and approval.

-End-