

1 HOUSE BILL NO. 63

2 INTRODUCED BY SCHWINDEN

3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO THE
6 VOLUNTEER FIREFIGHTERS' COMPENSATION ACT; PROVIDING FOR ACTUARIALLY FUNDED BENEFITS
7 AND REVISING THE MONTHLY PENSION AMOUNTS ACCORDINGLY; AMENDING SECTIONS 19-17-102,
8 19-17-103, 19-17-201, 19-17-204, 19-17-301, 19-17-302, 19-17-401, 19-17-402, 19-17-403,
9 19-17-404, 19-17-405, 19-17-407, 19-17-408, 19-17-409, 19-17-501, 19-17-502, 19-17-503,
10 19-17-504, 19-17-505, AND 19-17-506, MCA; AND PROVIDING AN EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 **NEW SECTION. Section 1. Pension trust fund established -- restrictions on use.** (1) A pension
15 trust fund is established and maintained for payment of claims and benefits provided under the Volunteer
16 Firefighters' Compensation Act and the volunteer firefighters' pension plan.

17 (2) Except as provided in this section, a member or an employee of the department or the board
18 of investments may not:

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

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

23 (c) in any manner use the pension trust fund except to make current and necessary payments that
24 are authorized by the division; or

25 (d) become an endorser or surety as to or in any manner an obligor for investments for the pension
26 trust fund.

27 (3) The assets of the pension trust fund may not be used for or diverted to any purpose other than
28 for the exclusive benefit of members, their surviving spouses, their dependent children, and qualified fire
29 companies and for paying the reasonable administrative expenses of administering this chapter.

1 **NEW SECTION. Section 2. Employment of actuary -- biennial investigation.** (1) The board shall
2 retain a competent actuary who is an enrolled member of the American academy of actuaries and who is
3 familiar with public pension systems. The actuary is the technical adviser to the board on matters regarding
4 the actuarial funding of the pension trust fund.

5 (2) The board shall require the actuary to make a biennial actuarial valuation of the assets and
6 liabilities of the pension trust fund. The actuarial valuation must include the sufficiency of the fund to pay
7 full and partial benefits to members and benefit recipients and must include recommendations for any
8 changes that should be made to those benefits or the contributions to the pension trust fund to ensure the
9 actuarial soundness of the pension trust fund.

10 (3) The board shall require the actuary to conduct periodic actuarial experience studies of the
11 pension trust fund and to recommend any changes in actuarial assumptions or tables based upon the
12 studies.

13
14 **NEW SECTION. Section 3. Credit for service as volunteer firefighter.** (1) The annual period of
15 service that may be credited under this chapter is the fiscal year. A fractional part of a year may not count
16 toward the service required for participation in this system. To be eligible to receive credit for any particular
17 year, a volunteer firefighter shall serve with a single fire company throughout the entire fiscal year.

18 (2) The years of service are cumulative and need not be continuous. Separate periods of service
19 properly credited with different fire companies in different fire districts must be credited toward a member's
20 eligibility for full or partial benefits.

21 (3) A volunteer firefighter must receive credit for service during any fiscal year if:

22 (a) during the fiscal year, the volunteer firefighter completes a minimum of 30 hours of instruction
23 in matters pertaining to firefighting under a formal program that has been formulated, supervised, and
24 certified to the division by the chief or foreman of the fire company;

25 (b) the fire company maintained firefighting equipment that is in serviceable condition and that is
26 valued at \$25,000 or more; and

27 (c) the fire company or the fire district served by it was rated in class 5, 6, 7, 8, 9, or 10 by the
28 board of fire underwriters for the purpose of fire insurance premium rates.

29
30 **Section 4.** Section 19-17-102, MCA, is amended to read:

1 **"19-17-102. Definitions.** Unless the context requires otherwise, the following definitions apply in
2 this chapter:

3 (1) "Active member" means a volunteer firefighter credited with service under this chapter during
4 the most recently reportable fiscal year.

5 (2) "Benefit" means the pension, disability, or survivorship benefit provided under this chapter.

6 ~~(3)~~ (3) "Board" means the public employees' retirement board provided for in 2-15-1009.

7 (4) "Claim" means a request from a member, surviving spouse, or dependent child for payment of
8 medical or funeral expenses.

9 (5) "Department" means the department of administration.

10 (6) "Dependent child" means a child who is unmarried, who is under 18 years of age, and who is
11 the child of a deceased member.

12 (7) "Disability" or "permanent total disability" has the meaning defined in 39-71-116.

13 (8) "Division" means the public employees' retirement division of the department.

14 ~~(9)~~ (9) "Fire company" means a fire company organized in an unincorporated area, town, or village
15 under the laws of the state of Montana.

16 ~~(10)~~ (10) "Fiscal year" means the 12-month period that begins on July 1 and ends
17 on June 30 of each the following year.

18 ~~(4) "Fund" or "volunteer firefighter fund" means the volunteer firefighters' pension trust fund.~~

19 (11) "Member" means a volunteer firefighter who has service credited under this chapter.

20 (12) "Pension trust fund" means the volunteer firefighters' pension trust fund established to pay
21 benefits under this chapter.

22 (13) "Retiree" or "retired member" means a member who is receiving full or partial participation
23 benefits from the pension trust fund.

24 (14) "Service" means cumulative periods of active membership that are credited only in full fiscal
25 years.

26 (15) "Supplemental insurance" means insurance that is carried by a fire company for the purposes
27 of providing disability or death benefits and that is in addition to any insurance required by law, including
28 workers' compensation insurance.

29 (16) "Surviving spouse" means the spouse married to a member when the member dies.

30 (17) "Survivorship benefit" means the monthly benefit paid to the surviving spouse or dependent

1 child of a deceased member.

2 (18) "Volunteer firefighter" means a person who is an active member of an eligible fire company
 3 and is not compensated for services as a firefighter."

4

5 **Section 5.** Section 19-17-103, MCA, is amended to read:

6 **"19-17-103. Payments to ~~volunteer~~ fire companies maintaining ~~group~~ supplemental insurance.** To
 7 encourage and aid ~~volunteer~~ fire companies to maintain ~~group~~ supplemental insurance ~~for~~ to provide
 8 benefits ~~on account of the death of or injury incurred by~~ when members are injured or killed while ~~in the~~
 9 ~~performance of performing~~ duties as volunteer firefighters, the board shall authorize payment of \$75 per
 10 year for each motorized mobile unit of firefighting equipment, not ~~exceeding two units for any one to~~
 11 exceed \$150 per fire company, shall per year. Payment must be paid by the board from a charge against
 12 ~~the volunteer firefighters' pension trust fund and must be paid~~ to each ~~volunteer~~ fire company maintaining
 13 ~~such supplemental~~ insurance or to the organization or agency maintaining ~~such supplemental~~ insurance for
 14 a ~~volunteer~~ fire company."

15

16 **Section 6.** Section 19-17-201, MCA, is amended to read:

17 **"19-17-201. Administration of chapter. (1)** ~~The board shall administer the Volunteer Firefighters'~~
 18 ~~Compensation Act and the volunteer firefighters' pension plan, and all payments made under 19-17-103,~~
 19 ~~19-17-405, 19-17-407, and 19-17-506 shall be made by warrants drawn by the board~~ is the trustee of all
 20 money collected under this chapter and has exclusive control of the administration of the pension trust fund
 21 except as otherwise provided by law.

22 (2) The department shall deposit in the state treasury all amounts received by it as provided in this
 23 chapter.

24 (3) The state treasurer is the custodian of the pension trust fund, subject to the control of the
 25 board for the administration of the fund and the board of investments for the investment of the fund.

26 (4) The board shall review the sufficiency of benefits ~~paid by the retirement system~~ provided under
 27 this chapter and recommend to the legislature those changes in benefits that may be necessary for retired
 28 members and their beneficiaries to maintain a stable standard of living."

29

30 **Section 7.** Section 19-17-204, MCA, is amended to read:

1 **"19-17-204. ~~Office supplies to be a charge against the fund~~ Administrative expenses.** Necessary
 2 expenses ~~of the board for office supplies, stationery, and forms in connection with~~ the administration of
 3 the Volunteer Firefighters' Compensation Act and the volunteer firefighters' pension plan are a charge
 4 against the pension trust fund. ~~The board shall draw from the fund through warrants at such intervals as~~
 5 ~~it considers proper to pay these expenses.~~ The necessary administrative expenses attributable to this
 6 chapter must be paid from the investment earnings on the public employees' pension trust fund. Before
 7 fiscal yearend closing, the division shall compute the expenses directly or proportionally attributable to this
 8 chapter over the past fiscal year and transfer that amount from the volunteer firefighters' pension trust fund
 9 to the public employees' pension trust fund."

10
 11 **Section 8.** Section 19-17-301, MCA, is amended to read:

12 **"19-17-301. Fire insurance premium tax to be paid into pension trust fund.** The state auditor and
 13 ex officio commissioner of insurance shall annually deposit in the ~~volunteer firefighters' pension trust fund~~
 14 a sum equivalent to 5% of the premium taxes collected from insurers authorized to effect insurance against
 15 risks enumerated in 19-18-512⁷. The sum must be computed before the amounts provided for by
 16 19-13-604 and 19-18-512 are deducted. The ~~moneys shall~~ money must be used for the payment of claims,
 17 benefits, and administrative costs as provided in this chapter. The money is statutorily appropriated as
 18 provided in 17-7-502."

19
 20 **Section 9.** Section 19-17-302, MCA, is amended to read:

21 **"19-17-302. ~~Earnings to be part of moneys~~ Investment of pension trust fund.** ~~All earnings made~~
 22 ~~by moneys received under 19-17-301 by reason of interest paid for the deposit thereof or otherwise shall~~
 23 ~~be credited to and become a part of such moneys.~~ (1) The pension trust fund must be invested by the
 24 board of investments as part of the unified investment program described in Title 17, chapter 6, part 2.

25 (2) All income earned on any assets constituting a part of the pension trust fund must be paid into
 26 the pension trust fund as received.

27 (3) For investment purposes, the pension trust fund may be commingled with other pension funds
 28 administered by the board, but a separate account must be maintained for each system."

29
 30 **Section 10.** Section 19-17-401, MCA, is amended to read:

1 "19-17-401. Eligibility for pension and disability benefits. ~~(1) In order to~~ To qualify for participation
 2 ~~in the volunteer firefighters' pension plan under 19-17-404, a volunteer firefighter shall~~ pension and
 3 disability benefits under this chapter, a member shall meet each of the following requirements of
 4 subsections (2) or (3) and (4):.

5 ~~(1) (a) (2) (a) To qualify for~~ For full participation pension benefits, a volunteer firefighter member
 6 must have completed a total of at least 20 years' service as an active volunteer firefighter and as an active
 7 member of a qualified volunteer fire company and must have attained 55 years of age, but need not be an
 8 active member of a fire company when 55 years of age is reached.

9 ~~(b) If a firefighter~~ A member who is prevented from completing at least 20 years' service, ~~the~~
 10 ~~firefighter~~ member has completed at least 10 years' service and has attained the 60 years of age of 60. ~~In that event, the firefighter is eligible~~
 11 ~~for only a proportion of the benefits specified in 19-17-404, determined by multiplying the benefits by a~~
 12 ~~fraction, the numerator of which is the number of years of active service completed and the denominator~~
 13 ~~of which is 20.~~

14 ~~(c) The years of active service are cumulative and need not be continuous. The service need not~~
 15 ~~be acquired with one single fire company but may be a total of separate periods of active service with~~
 16 ~~different fire companies in different fire districts.~~

17 ~~(d) Effective March 1, 1965, the annual period of service for the purpose of this chapter is the~~
 18 ~~fiscal year. A fractional part of any year may not count toward the service requirement, and to receive~~
 19 ~~credit for any particular year, a volunteer firefighter shall serve with one particular volunteer fire company~~
 20 ~~throughout that entire fiscal year.~~

21 ~~(2) (a) Except as provided in subsection (2)(b), in order to receive pension benefits, a firefighter~~
 22 ~~must have attained the age of 55, but need not be an active volunteer firefighter or an active member of~~
 23 ~~any volunteer fire company when that~~ 60 years of age is reached.

24 ~~(b)(3)~~ (3) An active member of a ~~volunteer~~ fire company whose duty-related injury results in a
 25 permanent total disability ~~as defined in 39-71-116~~ is eligible, regardless of age or service, to receive a
 26 ~~partial pension calculated as follows:~~ disability benefit.

27 ~~(i) for a member with less than 10 years of service, a pension calculated as provided in subsection~~
 28 ~~(1)(b) in which the numerator equals 10; or~~

29 ~~(ii) for a member with 10 years or more of service, a pension calculated as provided in subsection~~
 30

1 ~~(1)(b).~~

2 ~~(3) During each of the years for which credit is claimed under subsection (1), a firefighter must~~
 3 ~~have completed a minimum of 30 hours of instruction in matters pertaining to firefighting under a program~~
 4 ~~formulated and supervised by the chief or foreman of the volunteer fire company.~~

5 ~~(4) Effective July 1, 1965, a volunteer firefighter may not receive credit for any year of~~
 6 ~~membership in a volunteer fire company unless, throughout the year:~~

7 ~~(a) the company maintained firefighting equipment in serviceable condition of a value of \$2,500~~
 8 ~~or more; and~~

9 ~~(b) the company or the fire district served by it was rated in class 5, 6, 7, 8, 9, or 10 by the board~~
 10 ~~of fire underwriters for the purpose of fire insurance premium rates.~~

11 ~~(5)(4) In order to To receive pension or disability benefits, a volunteer firefighter must have ceased~~
 12 ~~to may not be an active member of any volunteer fire company, and if the A volunteer firefighter applies~~
 13 ~~for and receives who receives pension or disability benefits under this part, the firefighter is not eligible to~~
 14 ~~chapter may not become an active member of any volunteer fire company."~~

15

16 **Section 11.** Section 19-17-402, MCA, is amended to read:

17 **"19-17-402. Certificate of eligibility.** ~~On or before September 1 of each year, the~~ The chief or
 18 foreman of ~~every each~~ volunteer fire company that claims eligibility under this chapter shall, on or before
 19 September 1 of each year, prepare and file with the board a certificate on a form to be provided by the
 20 board, subscribed and verified under oath, stating whether or not his whether the company qualified under
 21 ~~19-17-401(4) [section 3(3)] during the preceding fiscal year and listing.~~ The certificate must list the full
 22 name, social security number, and residence address date of birth of each member of his the fire company
 23 who was a member for the entire fiscal year and satisfactorily completed 30 hours of instruction during the
 24 preceding fiscal year, as required by 19-17-401(3) [section 3(3)]. The verified certificate shall must be
 25 maintained in a permanent file by the board for the purpose of establishing service for members and
 26 eligibility for participation in the volunteer firefighters' pension plan and shall be open for inspection as a
 27 public record benefits."

28

29 **Section 12.** Section 19-17-403, MCA, is amended to read:

30 **"19-17-403. Procedure for claiming pension Application for benefits.** (1) ~~Anyone claiming eligibility~~

1 ~~under the volunteer firefighters' pension plan must file his claim with the board upon~~ A member, surviving
 2 spouse, or dependent child shall apply for benefits on a form to be provided therefor by the board. The
 3 ~~claim must be filed on or before May 1 of the calendar year in which the claimant seeks to qualify for~~
 4 ~~participation in the pension plan.~~

5 (2) The ~~claim~~ application must contain:

6 (a) the name, address, and date of birth of the ~~claimant and of the volunteer firefighter, if he is not~~
 7 ~~the claimant~~ member, surviving spouse, or dependent child;

8 (b) ~~the fiscal year during which eligibility will commence~~ the date of birth of the member; and

9 (c) the fiscal years during which service as a ~~volunteer firefighter was rendered~~ an active member
 10 is claimed and the names of the ~~volunteer~~ fire companies with which the service was rendered.

11 (3) The board may require ~~such~~ any proof of age and service as that it may consider proper, but
 12 it must accept a certificate properly completed and timely filed under 19-17-402 or subsection (3) of section
 13 22, Chapter 157, Laws of 1977, as prima facie proof of ~~such~~ service.

14 (4) If ~~the claim is a qualified member properly filed and the claimant is found by the board to be~~
 15 ~~properly qualified to participate in the volunteer firefighters' pension plan, the name of the claimant shall~~
 16 ~~be added to the list of qualified persons and the claimant will then be~~ submits an application, the member
 17 is entitled to participate in the volunteer firefighters' pension plan receive benefits as of the fiscal year
 18 beginning July 1 next first day of the month following the filing approval of the claim application."

19
 20 **Section 13.** Section 19-17-404, MCA, is amended to read:

21 "**19-17-404. Pension Amount of pension and disability benefits.** (1) ~~Each person who meets the~~
 22 ~~requirements set forth in 19-17-401 or, in the case of a beneficiary, 19-17-406(1) and who has completed~~
 23 ~~and filed a claim as provided in 19-17-403 is entitled to participate in the volunteer firefighters' pension plan~~
 24 ~~and to~~ eligible member must receive payments pension and disability benefits as provided in this section.

25 (2) ~~The payments must be computed each year in the following manner:~~

26 (a) ~~For fiscal years 1994 and 1995, the~~ The base pension benefit level is \$120 \$100 per month
 27 for each retiree qualifying members who are eligible for full participation pension benefits under the
 28 provisions of 19-17-401(1)(a).

29 (b) ~~Partial participation is~~ pension benefits are calculated under the provisions of 19-17-401(1)(b)
 30 by multiplying the full pension benefit of \$100 by a fraction, the numerator of which is the member's years

1 of service and the denominator of which is 20.

2 ~~(b) Whenever at the close of business on the last day of a fiscal year there is a balance in the~~
3 ~~volunteer firefighters' fund in excess of \$6 million, the board shall set aside the amount to be paid to each~~
4 ~~qualifying claimant.~~

5 ~~(c) For the purpose of computation and payment of benefits under this section, if children of a~~
6 ~~volunteer firefighter become eligible for benefits, all the children of the volunteer firefighter must be treated~~
7 ~~collectively as one claimant.~~

8 ~~(3) If the amount of the benefit for a qualified claimant is at least \$20 per month throughout the~~
9 ~~succeeding fiscal year, the pension must be paid monthly on or before the last day of each month. If the~~
10 ~~amount of the benefit for a qualified claimant is less than \$20 per month, the qualified claimant's full~~
11 ~~pension for that year must be paid in one lump payment on or before December 15 of that year.~~

12 (2) The disability benefit paid to eligible members is calculated in the same manner as partial
13 pension benefits described in subsection (1)(b), except that the numerator may not be less than 10."

14

15 **Section 14.** Section 19-17-405, MCA, is amended to read:

16 **"19-17-405. Pension Survivorship benefits to surviving spouse or dependent children.** (1) ~~The~~
17 Subject to the limitation in subsection (3), survivorship benefits equal to the full or partial participation
18 pension shall benefits otherwise payable to the deceased member must be paid or continue to be paid to
19 the surviving spouse, if any, until such spouse's death or remarriage or, if the deceased volunteer firefighter
20 member left no surviving spouse but left a dependent child or children under the age of 18, to the guardian
21 or other person having custody of the children dependent child until the youngest child reaches the age of
22 18.

23 (2) The pension shall survivorship benefit must be paid in each of the following circumstances:

24 (a) ~~the death on or after July 1, 1985~~ 1995, of a ~~volunteer firefighter who has not reached the age~~
25 ~~of 55 but who has otherwise qualified for full participation member who had at least 10 years of service~~
26 and who was not receiving pension benefits; or

27 ~~(b) the death on or after July 1, 1985, of a volunteer firefighter who has not reached the age of~~
28 ~~55 but who has otherwise qualified for partial participation;~~

29 ~~(c)(b) the death on or after July 1, 1985, of a volunteer firefighter retired member after qualifying~~
30 ~~for full participation who was receiving pension benefits but before receiving payments totaling at least~~

1 ~~\$4,000 who had not received benefits for a total of 40 months; or,~~

2 ~~(d) the death on or after July 1, 1985, of a volunteer firefighter after he has qualified for partial~~
 3 ~~participation but before he has received payments totaling the proportion of \$4,000 determined under the~~
 4 ~~formula prescribed in 19-17-401(1)(b).~~

5 ~~(2)(3) Payments Survivorship benefits under subsection (1) shall terminate, in the case of a full~~
 6 ~~participation pension, when benefits have been paid for a total of \$4,000 has been paid upon the pension~~
 7 ~~40 months, including any payments made pension or disability benefits paid to the volunteer firefighter~~
 8 ~~retiree before his death, or in the case of a partial participation pension, when a total of the proportion of~~
 9 ~~\$4,000 determined under the formula prescribed in 19-17-401(1)(b) has been paid upon the pension,~~
 10 ~~including any payments made to the volunteer firefighter before his death."~~

11

12 **Section 15.** Section 19-17-407, MCA, is amended to read:

13 **"19-17-407. ~~Payment of pension benefits—exemption~~ Exemption from taxation.** ~~(1) All payments~~
 14 ~~under the volunteer firefighters' pension plan must be approved by the board and paid by warrants drawn~~
 15 ~~upon the pension trust fund, payable to the order of the individual qualified volunteer firefighter or the~~
 16 ~~beneficiary as provided in 19-17-405(1).~~

17 ~~(2) The first \$3,600 or the amount determined pursuant to 15-30-111(2)(c)(ii) of benefits received~~
 18 ~~under this part is exempt from state, county, and municipal taxation."~~

19

20 **Section 16.** Section 19-17-408, MCA, is amended to read:

21 **"19-17-408. Medical review of certain disability retirees.** The board may require ~~the recipient of~~
 22 ~~a partial pension resulting from a permanent, total disability~~ a member who receives a disability benefit to
 23 undergo periodic medical examinations. The examinations must be made by a physician or surgeon at the
 24 ~~recipient's~~ member's residence or ~~another~~ a place mutually ~~agreed on~~ agreeable to the board and the
 25 member. Upon the basis of ~~the examination~~ these examinations and the advice of the board's consulting
 26 physician, the board shall determine, by reason of physical or mental capacity, whether the ~~recipient~~
 27 member remains permanently and totally disabled."

28

29 **Section 17.** Section 19-17-409, MCA, is amended to read:

30 **"19-17-409. ~~Cancellation and reinstatement of certain pensions~~ disability benefits.** (1) The board

1 may cancel a ~~recipient's partial pension resulting from a permanent, total~~ member's disability benefit if:

2 (a) the board determines, as provided in 19-17-408, that the ~~recipient member~~ member is no longer
3 ~~permanently and totally disabled as provided in 19-17-408;~~

4 (b) the ~~recipient member~~ member refuses to submit to a medical examination under 19-17-408; or

5 (c) the ~~recipient member~~ member engages in a gainful occupation during the previous year and ~~the~~
6 ~~compensation earned by him in that year exceeds~~ earns compensation exceeding \$5,500.

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

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

13
14 **Section 18.** Section 19-17-501, MCA, is amended to read:

15 "**19-17-501. Eligibility for ~~disability~~ medical and death benefits funeral expenses.** (1) To qualify for
16 ~~benefits~~ medical expenses under 19-17-504, a volunteer firefighter must, ~~at the time the injury or sickness~~
17 ~~for which benefits are claimed was incurred, have been~~ be an ~~enrolled~~ active member of a fire company
18 that is not covered by workers' compensation insurance when the injury or illness occurs.

19 (2) To qualify for ~~benefits~~ funeral expenses under 19-17-505, a volunteer firefighter must, at the
20 time of death, ~~have been~~ be an ~~enrolled~~ active member of a fire company."

21
22 **Section 19.** Section 19-17-502, MCA, is amended to read:

23 "**19-17-502. Procedure for claiming ~~disability~~ benefits medical expenses.** (1) A ~~firefighter claiming~~
24 ~~benefits~~ member who claims medical expenses under 19-17-504 ~~must file his~~ shall submit a claim with the
25 ~~board~~ on a form ~~to be~~ provided by the board. The claim must be verified by the ~~claimant, the attending~~
26 ~~physician or surgeon and nurse, if any, and the person in charge of the hospital, if the claimant was~~
27 ~~enrolled~~ member and by competent medical authority. The claim must be ~~filed with the board~~ submitted
28 within 1 year from the date of ~~disability~~ incurring the injury or illness.

29 (2) The claim must contain:

30 (a) the name and address of the ~~claimant~~ member;

- 1 (b) the date, place, and manner of incurring ~~of disability~~ the injury or illness;
- 2 (c) the name and address of the attending physician, ~~or surgeon and/or,~~ or nurse, if any;
- 3 (d) the dates ~~of confinement, if confined, or if not confined, the dates of attendance by a physician~~
4 ~~or surgeon and the dates of attendance by a nurse~~ of hospitalization, if hospitalized;
- 5 (e) ~~the an~~ an affidavit of from the attending physician, ~~or surgeon,~~ or nurse ~~as to~~ that describes the
6 nature of the ~~disability~~ injury or illness, the number and dates of visits, and the ~~charges~~ expenses;
- 7 (f) ~~if confined in a hospital, the~~ if hospitalized, an affidavit of a person in charge from competent
8 authority stating the nature of the ~~disability~~ injury or illness, the dates of ~~confinement~~ hospitalization, and
9 the expenses ~~incurred while so confined~~;
- 10 (g) ~~the an~~ an affidavit of from the chief or secretary of the fire company stating that the fire company
11 was duly organized under the laws of Montana in an unincorporated town or village, that the ~~claimant~~
12 member was, at the ~~date of disability~~ time of the injury or illness, an active ~~enrolled~~ member of the
13 company, and that the ~~disability~~ injury or illness was incurred in the line of duty as ~~defined~~ described in
14 19-17-105~~;~~;
- 15 (h) ~~the affidavit of the nurse stating the nature of the disability, the dates of attendance, and the~~
16 ~~charges for services."~~

17

18 **Section 20.** Section 19-17-503, MCA, is amended to read:

19 "**19-17-503. Procedure for claiming ~~death benefit funeral expenses~~.** ~~Anyone~~ A person claiming the
20 ~~benefit~~ funeral expenses provided for in 19-17-505 ~~must file his claim with the board upon~~ shall submit the
21 claim on a form ~~to be~~ provided by the board, in accordance with ~~such~~ the board's rules ~~as the board may~~
22 ~~make."~~

23

24 **Section 21.** Section 19-17-504, MCA, is amended to read:

25 "**19-17-504. ~~Disability benefits~~ Medical expenses.** (1) ~~Each member of a fire company is entitled~~
26 ~~to receive compensation for disability~~ The board shall authorize payment of some or all medical expenses
27 resulting from an injury or illness that was incurred ~~while in the performance of his duties as a firefighter~~
28 in the line of duty, as defined described in 19-17-105, ~~when the disability necessitates and that required~~
29 the services of a physician, ~~or surgeon,~~ or nurse, whether or not the member ~~is confined or not~~ was
30 hospitalized. The ~~compensation shall~~ payments must equal the amount of the member's necessary and

1 reasonable out-of-pocket medical expenses ~~resulting that resulted~~ directly from the disability injury or illness
 2 and incurred that were billed within 36 months from following the date of the injury ~~which caused the~~
 3 disability or illness. The total ~~compensation claim for reimbursement~~ may not exceed \$25,000.

4 (2) ~~When~~ If an injury incurred in the line of duty results in the loss by amputation of an arm, hand,
 5 leg, or foot, the enucleation of an eye, or the loss of any natural teeth, the board shall ~~order that an artificial~~
 6 ~~member be furnished. The expense of furnishing an artificial member may not exceed~~ authorize either a
 7 payment for the cost of a prosthesis or a payment of \$1,500 to help defray the cost of a prosthesis,
 8 whichever is less. The artificial member so furnished shall prosthesis may be replaced when necessary, but
 9 not more often than every 5 years, if necessary. The board shall authorize payment of not more than
 10 \$1,500 of the replacement costs."

11
 12 **Section 22.** Section 19-17-505, MCA, is amended to read:

13 "**19-17-505. ~~Death benefit~~ Funeral expenses.** ~~To~~ The board shall authorize payment of reasonable
 14 expenses or \$1,500, whichever is less, to aid in defraying the funeral expenses of a firefighter covered
 15 under this chapter an active member whose death occurs in the line of duty, ~~an amount not to exceed the~~
 16 ~~actual necessary and reasonable expenses or \$1,500, whichever is less, shall be allowed."~~

17
 18 **Section 23.** Section 19-17-506, MCA, is amended to read:

19 "**19-17-506. Payment of ~~disability medical and death benefits~~ funeral expenses.** When a claim
 20 under 19-17-504 or 19-17-505 is received and approved by the board, ~~and is found to be in compliance~~
 21 ~~with 19-17-502 or, in the case of a claim under 19-17-505, with 19-17-503, the board must order the~~
 22 ~~allowance thereof and pay it by warrants drawn upon the volunteer firefighters' fund to the order of the~~
 23 ~~attending physician or surgeon, attending nurse, and hospital or the~~ payment must be made directly to the
 24 appropriate provider of the medical care or funeral services, as applicable."

25
 26 **NEW SECTION. Section 24. Codification instruction.** [Sections 1 through 3] are intended to be
 27 codified as an integral part of Title 19, chapter 17, and the provisions of Title 19, chapter 17, apply to
 28 [sections 1 through 3].

29
 30 **NEW SECTION. Section 25. Effective date.** [This act] is effective July 1, 1995.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0063, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising laws relating to the volunteer firefighters' compensation act; providing for actuarially funded benefits; and revising the monthly pension amounts accordingly.

ASSUMPTIONS:

1. The current volunteer firefighters' compensation fund is structured on a "pay-as-you-go" basis which does not take into consideration factors such as projections of changes in benefit payments or investment earnings in determining the ability to sustain established pension benefits given established pension revenues in the long term.
2. Current law terminates pension benefits paid from the volunteer firefighters' compensation fund on July 1, 1995.
3. There would be an estimated 703 recipients of pension/disability benefits in FY96 and an estimated 717 recipients in FY97 with average service of 17.5 years.
4. Current pension and disability benefits are established at \$120 per month. HB0063 would revise the monthly pension and disability benefit to \$100 per month.
5. The revenue estimates adopted by the Revenue Oversight Committee assume the allocation of insurance premiums taxes would continue through the 1997 biennium. Hence, the proposal will not affect general fund revenues.

FISCAL IMPACT:

Relative to current law for the 1997 biennium and thereafter, HB0063 would reauthorize benefit payments which would otherwise terminate, although at a lower level.

At current pension/disability levels, benefit payments would be an estimated \$885,780 in FY96 and \$921,488 in FY97. At the revised pension/disability benefit levels contained in HB0063, benefit payments would be an estimated \$738,150 in FY96 and \$767,907 in FY97, a reduction of \$147,630 in FY96 and by \$153,581 in FY97.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

None.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The change in monthly pension and disability benefits from \$120 per month to \$100 per month will cause current contributions (5% of insurance premium tax revenues--approximately \$770,000 in FY94) to be deemed adequate to fund pension benefits on an actuarial basis. Maintaining the existing benefit level at \$120 per month would cause the fund to be actuarially unsound unless contributions to the fund were increased.

 1-5-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1/6/95

DORE SCHWINDEN, PRIMARY SPONSOR DATE

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

1 HOUSE BILL NO. 63

2 INTRODUCED BY SCHWINDEN

3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO THE
6 VOLUNTEER FIREFIGHTERS' COMPENSATION ACT; PROVIDING FOR ACTUARIALLY FUNDED BENEFITS
7 AND REVISING THE MONTHLY PENSION AMOUNTS ACCORDINGLY; AMENDING SECTIONS 19-17-102,
8 19-17-103, 19-17-201, 19-17-204, 19-17-301, 19-17-302, 19-17-401, 19-17-402, 19-17-403,
9 19-17-404, 19-17-405, 19-17-407, 19-17-408, 19-17-409, 19-17-501, 19-17-502, 19-17-503,
10 19-17-504, 19-17-505, AND 19-17-506, MCA; AND PROVIDING AN EFFECTIVE DATE."

11

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

13

14 **NEW SECTION. Section 1. Pension trust fund established -- restrictions on use.** (1) A pension
15 trust fund is established and maintained for payment of claims and benefits provided under the Volunteer
16 Firefighters' Compensation Act and the volunteer firefighters' pension plan.

17 (2) Except as provided in this section, a member or an employee of the department or the board
18 of investments may not:

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

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

23 (c) in any manner use the pension trust fund except to make current and necessary payments that
24 are authorized by the division; or

25 (d) become an endorser or surety as to or in any manner an obligor for investments for the pension
26 trust fund.

27 (3) The assets of the pension trust fund may not be used for or diverted to any purpose other than
28 for the exclusive benefit of members, their surviving spouses, their dependent children, and qualified fire
29 companies and for paying the reasonable administrative expenses of administering this chapter.

30

1 **NEW SECTION. Section 2. Employment of actuary -- biennial investigation.** (1) The board shall
2 retain a competent actuary who is an enrolled member of the American academy of actuaries and who is
3 familiar with public pension systems. The actuary is the technical adviser to the board on matters regarding
4 the actuarial funding of the pension trust fund.

5 (2) The board shall require the actuary to make a biennial actuarial valuation of the assets and
6 liabilities of the pension trust fund. The actuarial valuation must include the sufficiency of the fund to pay
7 full and partial benefits to members and benefit recipients and must include recommendations for any
8 changes that should be made to those benefits or the contributions to the pension trust fund to ensure the
9 actuarial soundness of the pension trust fund.

10 (3) The board shall require the actuary to conduct periodic actuarial experience studies of the
11 pension trust fund and to recommend any changes in actuarial assumptions or tables based upon the
12 studies.

13
14 **NEW SECTION. Section 3. Credit for service as volunteer firefighter.** (1) The annual period of
15 service that may be credited under this chapter is the fiscal year. A fractional part of a year may not count
16 toward the service required for participation in this system. To be eligible to receive credit for any particular
17 year, a volunteer firefighter shall serve with a single fire company throughout the entire fiscal year.

18 (2) The years of service are cumulative and need not be continuous. Separate periods of service
19 properly credited with different fire companies in different fire districts must be credited toward a member's
20 eligibility for full or partial benefits.

21 (3) A volunteer firefighter must receive credit for service during any fiscal year if:

22 (a) during the fiscal year, the volunteer firefighter completes a minimum of 30 hours of instruction
23 in matters pertaining to firefighting under a formal program that has been formulated, supervised, and
24 certified to the division by the chief or foreman of the fire company;

25 (b) the fire company maintained firefighting equipment that is in serviceable condition and that is
26 valued at \$25,000 or more; and

27 (c) the fire company or the fire district served by it was rated in class 5, 6, 7, 8, 9, or 10 by the
28 board of fire underwriters for the purpose of fire insurance premium rates.

29
30 **Section 4.** Section 19-17-102, MCA, is amended to read:

1 "19-17-102. Definitions. Unless the context requires otherwise, the following definitions apply in
2 this chapter:

3 (1) "Active member" means a volunteer firefighter credited with service under this chapter during
4 the most recently reportable fiscal year.

5 (2) "Benefit" means the pension, disability, or survivorship benefit provided under this chapter.

6 ~~(1)(3)~~ "Board" means the public employees' retirement board provided for in 2-15-1009.

7 (4) "Claim" means a request from a member, surviving spouse, or dependent child for payment of
8 medical or funeral expenses.

9 (5) "Department" means the department of administration.

10 (6) "Dependent child" means a child who is unmarried, who is under 18 years of age, and who is
11 the child of a deceased member.

12 (7) "Disability" or "permanent total disability" has the meaning defined in 39-71-116.

13 (8) "Division" means the public employees' retirement division of the department.

14 ~~(2)(9)~~ "Fire company" means a fire company organized in an unincorporated area, town, or village
15 under the laws of the state of Montana.

16 ~~(3)(10) The fiscal year~~ "Fiscal year" means the 12-month period that begins on July 1 and ends
17 on June 30 of each the following year.

18 ~~(4) "Fund" or "volunteer firefighter fund" means the volunteer firefighters' pension trust fund.~~

19 (11) "Member" means a volunteer firefighter who has service credited under this chapter.

20 (12) "Pension trust fund" means the volunteer firefighters' pension trust fund established to pay
21 benefits under this chapter.

22 (13) "Retiree" or "retired member" means a member who is receiving full or partial participation
23 benefits from the pension trust fund.

24 (14) "Service" means cumulative periods of active membership that are credited only in full fiscal
25 years.

26 (15) "Supplemental insurance" means insurance that is carried by a fire company for the purposes
27 of providing disability or death benefits and that is in addition to any insurance required by law, including
28 workers' compensation insurance.

29 (16) "Surviving spouse" means the spouse married to a member when the member dies.

30 (17) "Survivorship benefit" means the monthly benefit paid to the surviving spouse or dependent

1 child of a deceased member.

2 (18) "Volunteer firefighter" means a person who is an active member of an eligible fire company
3 and is not compensated for services as a firefighter."

4

5 **Section 5.** Section 19-17-103, MCA, is amended to read:

6 **"19-17-103. Payments to ~~volunteer~~ fire companies maintaining group supplemental insurance.** To
7 encourage and aid ~~volunteer~~ fire companies to maintain group supplemental insurance ~~for~~ to provide
8 benefits ~~on account of the death of or injury incurred by~~ when members are injured or killed while in the
9 performance of performing duties as volunteer firefighters, the board shall authorize payment of \$75 per
10 year for each motorized mobile unit of firefighting equipment, not ~~exceeding two units for any one to~~
11 exceed \$150 per fire company, shall per year. Payment ~~must be paid by the board from a charge against~~
12 the ~~volunteer firefighters'~~ pension trust fund and must be paid to each ~~volunteer~~ fire company maintaining
13 such supplemental insurance or to the organization or agency maintaining such supplemental insurance for
14 a ~~volunteer~~ fire company."

15

16 **Section 6.** Section 19-17-201, MCA, is amended to read:

17 **"19-17-201. Administration of chapter. (1)** ~~The board shall administer the Volunteer Firefighters'~~
18 ~~Compensation Act and the volunteer firefighters' pension plan, and all payments made under 19-17-103,~~
19 ~~19-17-405, 19-17-407, and 19-17-506 shall be made by warrants drawn by the board~~ is the trustee of all
20 money collected under this chapter and has exclusive control of the administration of the pension trust fund
21 except as otherwise provided by law.

22 (2) The department shall deposit in the state treasury all amounts received by it as provided in this
23 chapter.

24 (3) The state treasurer is the custodian of the pension trust fund, subject to the control of the
25 board for the administration of the fund and the board of investments for the investment of the fund.

26 (4) The board shall review the sufficiency of benefits ~~paid by the retirement system~~ provided under
27 this chapter and recommend to the legislature those changes in benefits that may be necessary for retired
28 members and their beneficiaries to maintain a stable standard of living."

29

30 **Section 7.** Section 19-17-204, MCA, is amended to read:

1 **"19-17-204. ~~Office supplies to be a charge against the fund~~ Administrative expenses.** Necessary
 2 expenses ~~of the board for office supplies, stationery, and forms in connection with~~ the administration of
 3 the Volunteer Firefighters' Compensation Act and the volunteer firefighters' pension plan are a charge
 4 against the pension trust fund. ~~The board shall draw from the fund through warrants at such intervals as~~
 5 ~~it considers proper to pay these expenses.~~ The necessary administrative expenses attributable to this
 6 chapter must be paid from the investment earnings on the public employees' pension trust fund. Before
 7 fiscal yearend closing, the division shall compute the expenses directly or proportionally attributable to this
 8 chapter over the past fiscal year and transfer that amount from the volunteer firefighters' pension trust fund
 9 to the public employees' pension trust fund."

10
 11 **Section 8.** Section 19-17-301, MCA, is amended to read:

12 **"19-17-301. Fire insurance premium tax to be paid into pension trust fund.** The state auditor and
 13 ex officio commissioner of insurance shall annually deposit in the ~~volunteer firefighters' pension trust fund~~
 14 a sum equivalent to 5% of the premium taxes collected from insurers authorized to effect insurance against
 15 risks enumerated in 19-18-512, The sum must be computed before the amounts provided for by
 16 19-13-604 and 19-18-512 are deducted. ~~The moneys shall~~ money must be used for the payment of claims,
 17 benefits, and administrative costs as provided in this chapter. The money is statutorily appropriated as
 18 provided in 17-7-502."

19
 20 **Section 9.** Section 19-17-302, MCA, is amended to read:

21 **"19-17-302. ~~Earnings to be part of moneys~~ Investment of pension trust fund.** ~~All earnings made~~
 22 ~~by moneys received under 19-17-301 by reason of interest paid for the deposit thereof or otherwise shall~~
 23 ~~be credited to and become a part of such moneys.~~ (1) The pension trust fund must be invested by the
 24 board of investments as part of the unified investment program described in Title 17, chapter 6, part 2.
 25 (2) All income earned on any assets constituting a part of the pension trust fund must be paid into
 26 the pension trust fund as received.
 27 (3) For investment purposes, the pension trust fund may be commingled with other pension funds
 28 administered by the board, but a separate account must be maintained for each system."

29
 30 **Section 10.** Section 19-17-401, MCA, is amended to read:

1 **"19-17-401. Eligibility for pension and disability benefits.** ~~(1) In order to~~ To qualify for participation
 2 ~~in the volunteer firefighters' pension plan under 19-17-404, a volunteer firefighter shall~~ pension and
 3 disability benefits under this chapter, a member shall meet ~~each of the following~~ requirements of
 4 subsections (2) or (3) and (4):.

5 ~~(1) (a) (2) (a) To qualify for~~ For full participation pension benefits, a volunteer firefighter member
 6 must have completed a total of at least 20 years' service as an active volunteer firefighter and as an active
 7 member of a qualified volunteer fire company and must have attained 55 years of age, but need not be an
 8 active member of a fire company when 55 years of age is reached.

9 ~~(b) If a firefighter~~ A member who is prevented from completing at least 20 years' service, ~~the~~
 10 ~~firefighter~~ member may qualify for partial ~~participation~~ pension benefits if the ~~firefighter has~~ member has completed
 11 at least 10 years' service and has attained ~~the 60 years of age of 60.~~ 60 years of age of 60. ~~In that event, the firefighter is eligible~~
 12 ~~for only a proportion of the benefits specified in 19-17-404, determined by multiplying the benefits by a~~
 13 ~~fraction, the numerator of which is the number of years of active service completed and the denominator~~
 14 ~~of which is 20.~~

15 ~~(c) The years of active service are cumulative and need not be continuous. The service need not~~
 16 ~~be acquired with one single fire company but may be a total of separate periods of active service with~~
 17 ~~different fire companies in different fire districts.~~

18 ~~(d) Effective March 1, 1965, the annual period of service for the purpose of this chapter is the~~
 19 ~~fiscal year. A fractional part of any year may not count toward the service requirement, and to receive~~
 20 ~~credit for any particular year, a volunteer firefighter shall serve with one particular volunteer fire company~~
 21 ~~throughout that entire fiscal year.~~

22 ~~(2) (a) Except as provided in subsection (2)(b), in order to receive pension benefits, a firefighter~~
 23 ~~must have attained the age of 55, but need not be an active volunteer firefighter or an active member of~~
 24 ~~any volunteer fire company when that 60 years of age is reached.~~

25 ~~(b)(3)~~ (3) An active member of a ~~volunteer~~ fire company whose duty-related injury results in a
 26 permanent total disability ~~as defined in 39-71-116~~ is eligible, regardless of age or service, to receive a
 27 ~~partial pension calculated as follows:~~ disability benefit.

28 ~~(i) for a member with less than 10 years of service, a pension calculated as provided in subsection~~
 29 ~~(1)(b) in which the numerator equals 10; or~~

30 ~~(ii) for a member with 10 years or more of service, a pension calculated as provided in subsection~~

1 ~~(1)(b).~~

2 ~~(3) During each of the years for which credit is claimed under subsection (1), a firefighter must~~
 3 ~~have completed a minimum of 30 hours of instruction in matters pertaining to firefighting under a program~~
 4 ~~formulated and supervised by the chief or foreman of the volunteer fire company.~~

5 ~~(4) Effective July 1, 1965, a volunteer firefighter may not receive credit for any year of~~
 6 ~~membership in a volunteer fire company unless, throughout the year:~~

7 ~~(a) the company maintained firefighting equipment in serviceable condition of a value of \$2,500~~
 8 ~~or more; and~~

9 ~~(b) the company or the fire district served by it was rated in class 5, 6, 7, 8, 9, or 10 by the board~~
 10 ~~of fire underwriters for the purpose of fire insurance premium rates.~~

11 ~~(5)(4) In order to To receive pension or disability benefits, a volunteer firefighter must have ceased~~
 12 ~~to may not be an active member of any volunteer fire company, and if the A volunteer firefighter applies~~
 13 ~~for and receives who receives pension or disability benefits under this part, the firefighter is not eligible to~~
 14 ~~chapter may not become an active member of any volunteer fire company."~~

15

16 **Section 11.** Section 19-17-402, MCA, is amended to read:

17 **"19-17-402. Certificate of eligibility.** ~~On or before September 1 of each year, the The chief or~~
 18 ~~foreman of every each volunteer fire company that claims eligibility under this chapter shall, on or before~~
 19 ~~September 1 of each year, prepare and file with the board a certificate on a form to be provided by the~~
 20 ~~board, subscribed and verified under oath, stating whether or not his whether the company qualified under~~
 21 ~~19-17-401(4) [section 3(3)] during the preceding fiscal year and listing. The certificate must list the full~~
 22 ~~name, social security number, and residence address date of birth of each member of his the fire company~~
 23 ~~who was a member for the entire fiscal year and satisfactorily completed 30 hours of instruction during the~~
 24 ~~preceding fiscal year, as required by 19-17-401(3) [section 3(3)]. The verified certificate shall must be~~
 25 ~~maintained in a permanent file by the board for the purpose of establishing service for members and~~
 26 ~~eligibility for participation in the volunteer firefighters' pension plan and shall be open for inspection as a~~
 27 ~~public record benefits."~~

28

29 **Section 12.** Section 19-17-403, MCA, is amended to read:

30 **"19-17-403. Procedure for claiming pension Application for benefits.** (1) ~~Anyone claiming eligibility~~

~~under the volunteer firefighters' pension plan must file his claim with the board upon~~ A member, surviving spouse, or dependent child shall apply for benefits on a form to be provided therefor by the board. The claim must be filed on or before May 1 of the calendar year in which the claimant seeks to qualify for participation in the pension plan.

(2) The ~~claim~~ application must contain:

(a) the name, address, and date of birth of the ~~claimant and of the volunteer firefighter, if he is not the claimant~~ member, surviving spouse, or dependent child;

(b) ~~the fiscal year during which eligibility will commence~~ the date of birth of the member; and

(c) the fiscal years during which service as a volunteer firefighter was rendered an active member is claimed and the names of the ~~volunteer~~ fire companies with which the service was rendered.

(3) The board may require ~~such~~ any proof of age and service ~~as~~ that it may consider proper, but it must accept a certificate properly completed and timely filed under 19-17-402 or subsection (3) of section 22, Chapter 157, Laws of 1977, as prima facie proof of such service.

(4) ~~If the claim is a qualified member properly filed and the claimant is found by the board to be properly qualified to participate in the volunteer firefighters' pension plan, the name of the claimant shall be added to the list of qualified persons and the claimant will then be~~ submits an application, the member is entitled to participate in the volunteer firefighters' pension plan receive benefits as of the fiscal year beginning July 1 next first day of the month following the filing approval of the claim application."

Section 13. Section 19-17-404, MCA, is amended to read:

"19-17-404. Pension Amount of pension and disability benefits. (1) ~~Each person who meets the requirements set forth in 19-17-401 or, in the case of a beneficiary, 19-17-405(1) and who has completed and filed a claim as provided in 19-17-403 is entitled to participate in the volunteer firefighters' pension plan and to~~ eligible member must receive payments pension and disability benefits as provided in this section.

~~(2) The payments must be computed each year in the following manner:~~

(a) ~~For fiscal years 1994 and 1995, the~~ The base pension benefit level is ~~\$120~~ \$100 per month for ~~each retiree qualifying members who are eligible~~ for full participation pension benefits under the ~~provisions of 19-17-401(1)(a).~~

(b) ~~Partial participation is~~ pension benefits are calculated under the ~~provisions of 19-17-401(1)(b)~~ by multiplying the full pension benefit of \$100 by a fraction, the numerator of which is the member's years

1 of service and the denominator of which is 20.

2 ~~(b) Whenever at the close of business on the last day of a fiscal year there is a balance in the~~
3 ~~volunteer firefighters' fund in excess of \$6 million, the board shall set aside the amount to be paid to each~~
4 ~~qualifying claimant.~~

5 ~~(c) For the purpose of computation and payment of benefits under this section, if children of a~~
6 ~~volunteer firefighter become eligible for benefits, all the children of the volunteer firefighter must be treated~~
7 ~~collectively as one claimant.~~

8 ~~(3) If the amount of the benefit for a qualified claimant is at least \$20 per month throughout the~~
9 ~~succeeding fiscal year, the pension must be paid monthly on or before the last day of each month. If the~~
10 ~~amount of the benefit for a qualified claimant is less than \$20 per month, the qualified claimant's full~~
11 ~~pension for that year must be paid in one lump payment on or before December 15 of that year.~~

12 (2) The disability benefit paid to eligible members is calculated in the same manner as partial
13 pension benefits described in subsection (1)(b), except that the numerator may not be less than 10."

14

15 **Section 14.** Section 19-17-405, MCA, is amended to read:

16 **"19-17-405. Pension Survivorship benefits to surviving spouse or dependent children.** (1) The
17 Subject to the limitation in subsection (3), survivorship benefits equal to the full or partial participation
18 pension shall benefits otherwise payable to the deceased member must be paid or continue to be paid to
19 the surviving spouse, if any, until such spouse's death or remarriage or, if the deceased volunteer firefighter
20 member left no surviving spouse but left a dependent child or children under the age of 18, to the guardian
21 or other person having custody of the children dependent child until the youngest child reaches the age of
22 18.

23 (2) The pension shall survivorship benefit must be paid in each of the following circumstances:

24 (a) the death on or after July 1, 1985 1995, of a volunteer firefighter who has not reached the age
25 of 55 but who has otherwise qualified for full participation member who had at least 10 years of service
26 and who was not receiving pension benefits; or

27 (b) the death on or after July 1, 1985, of a volunteer firefighter who has not reached the age of
28 55 but who has otherwise qualified for partial participation;

29 ~~(c)~~(b) the death on or after July 1, 1985, of a volunteer firefighter retired member after qualifying
30 for full participation who was receiving pension benefits but before receiving payments totaling at least

1 ~~4,000 who had not received benefits for a total of 40 months; or,~~

2 ~~(d) the death on or after July 1, 1985, of a volunteer firefighter after he has qualified for partial~~
 3 ~~participation but before he has received payments totaling the proportion of \$4,000 determined under the~~
 4 ~~formula prescribed in 19-17-401(1)(b).~~

5 ~~(2)(3) Payments Survivorship benefits under subsection (1) shall terminate, in the case of a full~~
 6 ~~participation pension, when benefits have been paid for a total of \$4,000 has been paid upon the pension~~
 7 ~~40 months, including any payments made pension or disability benefits paid to the volunteer firefighter~~
 8 ~~retiree before his death, or in the case of a partial participation pension, when a total of the proportion of~~
 9 ~~\$4,000 determined under the formula prescribed in 19-17-401(1)(b) has been paid upon the pension,~~
 10 ~~including any payments made to the volunteer firefighter before his death."~~

11
 12 **Section 15.** Section 19-17-407, MCA, is amended to read:

13 ~~"19-17-407. Payment of pension benefits—exemption Exemption from taxation. (1) All payments~~
 14 ~~under the volunteer firefighters' pension plan must be approved by the board and paid by warrants drawn~~
 15 ~~upon the pension trust fund, payable to the order of the individual qualified volunteer firefighter or the~~
 16 ~~beneficiary as provided in 19-17-405(1).~~

17 ~~(2) The first \$3,600 or the amount determined pursuant to 15-30-111(2)(c)(ii) of benefits received~~
 18 ~~under this part is exempt from state, county, and municipal taxation."~~

19
 20 **Section 16.** Section 19-17-408, MCA, is amended to read:

21 ~~"19-17-408. Medical review of certain disability retirees. The board may require the recipient of~~
 22 ~~a partial pension resulting from a permanent, total disability a member who receives a disability benefit to~~
 23 ~~undergo periodic medical examinations. The examinations must be made by a physician or surgeon at the~~
 24 ~~recipient's member's residence or another a place mutually agreed on agreeable to the board and the~~
 25 ~~member. Upon the basis of the examination these examinations and the advice of the board's consulting~~
 26 ~~physician, the board shall determine, by reason of physical or mental capacity, whether the recipient~~
 27 ~~member remains permanently and totally disabled."~~

28
 29 **Section 17.** Section 19-17-409, MCA, is amended to read:

30 ~~"19-17-409. Cancellation and reinstatement of certain pensions disability benefits. (1) The board~~

1 may cancel a ~~recipient's partial pension resulting from a permanent, total~~ member's disability benefit if:

2 (a) the board determines, as provided in 19-17-408, that the ~~recipient member~~ member is no longer
3 ~~permanently and totally disabled as provided in 19-17-408~~;

4 (b) the ~~recipient member~~ member refuses to submit to a medical examination under 19-17-408; or

5 (c) the ~~recipient member~~ member engages in a gainful occupation during the previous year and ~~the~~
6 ~~compensation earned by him in that year exceeds~~ earns compensation exceeding \$5,500.

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

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

13
14 **Section 18.** Section 19-17-501, MCA, is amended to read:

15 "**19-17-501. Eligibility for ~~disability medical and death benefits~~ funeral expenses.** (1) To qualify for
16 ~~benefits~~ medical expenses under 19-17-504, a volunteer firefighter must, ~~at the time the injury or sickness~~
17 ~~for which benefits are claimed was incurred, have been~~ be an enrolled active member of a fire company
18 that is not covered by workers' compensation insurance when the injury or illness occurs.

19 (2) To qualify for ~~benefits~~ funeral expenses under 19-17-505, a volunteer firefighter must, at the
20 time of death, ~~have been~~ be an enrolled active member of a fire company."

21
22 **Section 19.** Section 19-17-502, MCA, is amended to read:

23 "**19-17-502. Procedure for claiming ~~disability benefits~~ medical expenses.** (1) A ~~firefighter claiming~~
24 ~~benefits~~ member who claims medical expenses under 19-17-504 ~~must file his~~ shall submit a claim with the
25 ~~board~~ on a form ~~to be~~ provided by the board. The claim must be verified by the ~~claimant, the attending~~
26 ~~physician or surgeon and nurse, if any, and the person in charge of the hospital, if the claimant was~~
27 ~~confined~~ member and by competent medical authority. The claim must be ~~filed with the board~~ submitted
28 within 1 year from the date of ~~disability~~ incurring the injury or illness.

29 (2) The claim must contain:

30 (a) the name and address of the ~~claimant~~ member;

- 1 (b) the date, place, and manner of incurring ~~of disability~~ the injury or illness;
- 2 (c) the name and address of the attending physician, ~~or surgeon and/or,~~ or nurse, if any;
- 3 (d) the dates ~~of confinement, if confined, or if not confined, the dates of attendance by a physician~~
4 ~~or surgeon and the dates of attendance by a nurse of hospitalization, if hospitalized~~;
- 5 (e) ~~the~~ an affidavit of from the attending physician, ~~or surgeon,~~ or nurse ~~as to~~ that describes the
6 nature of the ~~disability injury or illness~~, the number and dates of visits, and the ~~charges~~ expenses;
- 7 (f) ~~if confined in a hospital, the~~ if hospitalized, an affidavit of ~~a person in charge~~ from competent
8 authority stating the nature of the ~~disability injury or illness~~, the dates of ~~confinement~~ hospitalization, and
9 the expenses ~~incurred while so confined~~;
- 10 (g) ~~the~~ an affidavit ~~of from~~ the chief or secretary of the fire company stating that the fire company
11 was duly organized under the laws of Montana in an unincorporated town or village, that the ~~claimant~~
12 member was, at the ~~date of disability~~ time of the injury or illness, an active ~~enrolled~~
13 company, and that the ~~disability injury or illness~~ was incurred in the line of duty as ~~defined~~ described in
14 19-17-105~~2~~;
- 15 (h) ~~the affidavit of the nurse stating the nature of the disability, the dates of attendance, and the~~
16 ~~charges for services."~~

17

18 **Section 20.** Section 19-17-503, MCA, is amended to read:

19 "**19-17-503. Procedure for claiming ~~death-benefit~~ funeral expenses.** ~~Anyone~~ A person claiming the
20 ~~benefit funeral expenses~~ provided for in 19-17-505 ~~must file his claim with the board upon~~ shall submit the
21 claim on a form ~~to be~~ provided by the board, in accordance with ~~such~~ the board's rules ~~as the board may~~
22 ~~make."~~

23

24 **Section 21.** Section 19-17-504, MCA, is amended to read:

25 "**19-17-504. ~~Disability benefits~~ Medical expenses.** (1) ~~Each member of a fire company is entitled~~
26 ~~to receive compensation for disability~~ The board shall authorize payment of some or all medical expenses
27 resulting from an injury or illness that was incurred while in the performance of his duties as a firefighter
28 in the line of duty, as defined described in 19-17-105, ~~when the disability necessitates and that required~~
29 the services of a physician, ~~or surgeon,~~ or nurse, whether or not the member is ~~confined or not~~ was
30 hospitalized. The ~~compensation shall~~ payments must equal the amount of the member's necessary and

1 reasonable ~~out-of-pocket~~ medical expenses ~~resulting that resulted~~ directly from the ~~disability injury or illness~~
 2 and ~~incurred that were billed~~ within 36 months ~~from following~~ the date of the injury ~~which caused the~~
 3 ~~disability or illness~~. The total ~~compensation claim for reimbursement~~ may not exceed \$25,000.

4 (2) ~~When~~ If an injury incurred in the line of duty results in the loss by amputation of an arm, hand,
 5 leg, or foot, the enucleation of an eye, or the loss of any natural teeth, the board shall ~~order that an artificial~~
 6 ~~member be furnished. The expense of furnishing an artificial member may not exceed~~ authorize either a
 7 payment for the cost of a prosthesis or a payment of \$1,500 to help defray the cost of a prosthesis,
 8 whichever is less. The ~~artificial member so furnished shall~~ prosthesis may be replaced when necessary, but
 9 not more often than every 5 years, if necessary. The board shall authorize payment of not more than
 10 \$1,500 of the replacement costs."

11
 12 **Section 22.** Section 19-17-505, MCA, is amended to read:

13 "**19-17-505. ~~Death benefit~~ Funeral expenses.** ~~To~~ The board shall authorize payment of reasonable
 14 expenses or \$1,500, whichever is less, to aid in defraying the funeral expenses of a firefighter covered
 15 under this chapter an active member whose death occurs in the line of duty, ~~an amount not to exceed the~~
 16 ~~actual necessary and reasonable expenses or \$1,500, whichever is less, shall be allowed."~~

17
 18 **Section 23.** Section 19-17-506, MCA, is amended to read:

19 "**19-17-506. Payment of ~~disability medical~~ and ~~death benefite~~ funeral expenses.** When a claim
 20 under 19-17-504 or 19-17-505 is received and approved by the board, ~~and is found to be in compliance~~
 21 ~~with 19-17-502 or, in the case of a claim under 19-17-505, with 19-17-503, the board must order the~~
 22 ~~allowance thereof and pay it by warrants drawn upon the volunteer firefighters' fund to the order of the~~
 23 ~~attending physician or surgeon, attending nurse, and hospital or the~~ payment must be made directly to the
 24 appropriate provider of the medical care or funeral services, as applicable."

25
 26 **NEW SECTION. Section 24. Codification instruction.** [Sections 1 through 3] are intended to be
 27 codified as an integral part of Title 19, chapter 17, and the provisions of Title 19, chapter 17, apply to
 28 [sections 1 through 3].

29
 30 **NEW SECTION. Section 25. Effective date.** [This act] is effective July 1, 1995.

-END-

- 13 -

1 HOUSE BILL NO. 63

2 INTRODUCED BY SCHWINDEN

3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO THE
6 VOLUNTEER FIREFIGHTERS' COMPENSATION ACT; PROVIDING FOR ACTUARIALLY FUNDED BENEFITS
7 AND REVISING THE MONTHLY PENSION AMOUNTS ACCORDINGLY; AMENDING SECTIONS 19-17-102,
8 19-17-103, 19-17-201, 19-17-204, 19-17-301, 19-17-302, 19-17-401, 19-17-402, 19-17-403,
9 19-17-404, 19-17-405, 19-17-407, 19-17-408, 19-17-409, 19-17-501, 19-17-502, 19-17-503,
10 19-17-504, 19-17-505, AND 19-17-506, MCA; AND PROVIDING AN EFFECTIVE DATE."

11

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

13

THERE ARE NO CHANGES IN THIS BILL
AND WILL NOT BE REPRINTED. PLEASE
REFER TO YELLOW COPY FOR COMPLETE TEXT.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 28, 1995

MR. PRESIDENT:

We, your committee on State Administration having had under consideration HB 63 (third reading copy -- blue), respectfully report that HB 63 be amended as follows and as so amended be concurred in.

Signed: Ethel M. Harding
Senator Ethel M. Harding Chair

That such amendments read:

1. Page 2, line 17.
Strike: "single"
2. Page 2, line 25.
Following: "and"
Insert: "owns one or more buildings used for the storage of that equipment"
3. Page 2, line 25.
Strike: the second "is"
Insert: "all together are"
4. Page 2, line 26.
Strike: "\$25,000"
Insert: "\$12,000"
5. Page 3, line 15.
Strike: "under the laws of the state of Montana"
Insert: "in accordance with 7-33-2311"

-END-

HB 63

PA
Amd. Coord.
Sec. of Senate

FOSTER
Senator Carrying Bill

SENATE
471435SC.SPv

HOUSE BILL NO. 63

INTRODUCED BY SCHWINDEN

BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO THE VOLUNTEER FIREFIGHTERS' COMPENSATION ACT; PROVIDING FOR ACTUARIALLY FUNDED BENEFITS AND REVISING THE MONTHLY PENSION AMOUNTS ACCORDINGLY; AMENDING SECTIONS 19-17-102, 19-17-103, 19-17-201, 19-17-204, 19-17-301, 19-17-302, 19-17-401, 19-17-402, 19-17-403, 19-17-404, 19-17-405, 19-17-407, 19-17-408, 19-17-409, 19-17-501, 19-17-502, 19-17-503, 19-17-504, 19-17-505, AND 19-17-506, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Pension trust fund established -- restrictions on use. (1) A pension trust fund is established and maintained for payment of claims and benefits provided under the Volunteer Firefighters' Compensation Act and the volunteer firefighters' pension plan.

(2) Except as provided in this section, a member or an employee of the department or the board of investments may not:

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

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

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

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

(3) The assets of the pension trust fund may not be used for or diverted to any purpose other than for the exclusive benefit of members, their surviving spouses, their dependent children, and qualified fire companies and for paying the reasonable administrative expenses of administering this chapter.

1 **NEW SECTION. Section 2. Employment of actuary -- biennial investigation.** (1) The board shall
2 retain a competent actuary who is an enrolled member of the American academy of actuaries and who is
3 familiar with public pension systems. The actuary is the technical adviser to the board on matters regarding
4 the actuarial funding of the pension trust fund.

5 (2) The board shall require the actuary to make a biennial actuarial valuation of the assets and
6 liabilities of the pension trust fund. The actuarial valuation must include the sufficiency of the fund to pay
7 full and partial benefits to members and benefit recipients and must include recommendations for any
8 changes that should be made to those benefits or the contributions to the pension trust fund to ensure the
9 actuarial soundness of the pension trust fund.

10 (3) The board shall require the actuary to conduct periodic actuarial experience studies of the
11 pension trust fund and to recommend any changes in actuarial assumptions or tables based upon the
12 studies.

13
14 **NEW SECTION. Section 3. Credit for service as volunteer firefighter.** (1) The annual period of
15 service that may be credited under this chapter is the fiscal year. A fractional part of a year may not count
16 toward the service required for participation in this system. To be eligible to receive credit for any particular
17 year, a volunteer firefighter shall serve with a ~~single~~ fire company throughout the entire fiscal year.

18 (2) The years of service are cumulative and need not be continuous. Separate periods of service
19 properly credited with different fire companies in different fire districts must be credited toward a member's
20 eligibility for full or partial benefits.

21 (3) A volunteer firefighter must receive credit for service during any fiscal year if:

22 (a) during the fiscal year, the volunteer firefighter completes a minimum of 30 hours of instruction
23 in matters pertaining to firefighting under a formal program that has been formulated, supervised, and
24 certified to the division by the chief or foreman of the fire company;

25 (b) the fire company maintained firefighting equipment that is in serviceable condition and **OWNS**
26 **ONE OR MORE BUILDINGS USED FOR THE STORAGE OF THAT EQUIPMENT** that ~~is~~ **ALL TOGETHER ARE**
27 valued at ~~\$25,000~~ **\$12,000** or more; and

28 (c) the fire company or the fire district served by it was rated in class 5, 6, 7, 8, 9, or 10 by the
29 board of fire underwriters for the purpose of fire insurance premium rates.

30

1 **Section 4.** Section 19-17-102, MCA, is amended to read:

2 **"19-17-102. Definitions.** Unless the context requires otherwise, the following definitions apply in
3 this chapter:

4 (1) "Active member" means a volunteer firefighter credited with service under this chapter during
5 the most recently reportable fiscal year.

6 (2) "Benefit" means the pension, disability, or survivorship benefit provided under this chapter.

7 ~~(4)~~(3) "Board" means the public employees' retirement board provided for in 2-15-1009.

8 (4) "Claim" means a request from a member, surviving spouse, or dependent child for payment of
9 medical or funeral expenses.

10 (5) "Department" means the department of administration.

11 (6) "Dependent child" means a child who is unmarried, who is under 18 years of age, and who is
12 the child of a deceased member.

13 (7) "Disability" or "permanent total disability" has the meaning defined in 39-71-116.

14 (8) "Division" means the public employees' retirement division of the department.

15 ~~(2)~~(9) "Fire company" means a fire company organized in an unincorporated area, town, or village
16 under the laws of the state of Montana IN ACCORDANCE WITH 7-33-2311.

17 ~~(3)~~(10) The fiscal year "Fiscal year" means the 12-month period that begins on July 1 and ends
18 on June 30 of each the following year.

19 ~~(4)~~ "Fund" or "volunteer firefighter fund" means the volunteer firefighters' pension trust fund.

20 (11) "Member" means a volunteer firefighter who has service credited under this chapter.

21 (12) "Pension trust fund" means the volunteer firefighters' pension trust fund established to pay
22 benefits under this chapter.

23 (13) "Retiree" or "retired member" means a member who is receiving full or partial participation
24 benefits from the pension trust fund.

25 (14) "Service" means cumulative periods of active membership that are credited only in full fiscal
26 years.

27 (15) "Supplemental insurance" means insurance that is carried by a fire company for the purposes
28 of providing disability or death benefits and that is in addition to any insurance required by law, including
29 workers' compensation insurance.

30 (16) "Surviving spouse" means the spouse married to a member when the member dies.

1 (17) "Survivorship benefit" means the monthly benefit paid to the surviving spouse or dependent
 2 child of a deceased member.

3 (18) "Volunteer firefighter" means a person who is an active member of an eligible fire company
 4 and is not compensated for services as a firefighter."

5
 6 **Section 5.** Section 19-17-103, MCA, is amended to read:

7 **"19-17-103. Payments to ~~volunteer~~ fire companies maintaining group supplemental insurance.** To
 8 encourage and aid ~~volunteer~~ fire companies to maintain group supplemental insurance ~~for to provide~~
 9 benefits ~~on account of the death of or injury incurred by~~ when members are injured or killed while in the
 10 ~~performance of performing~~ duties as volunteer firefighters, the board shall authorize payment of \$75 per
 11 year for each motorized mobile unit of firefighting equipment, not ~~exceeding two units for any one to~~
 12 exceed \$150 per fire company, shall per year. Payment must be ~~paid by the board from a charge against~~
 13 ~~the volunteer firefighters' pension trust fund and must be paid to each volunteer fire company maintaining~~
 14 ~~such supplemental~~ insurance or to the organization or agency maintaining ~~such supplemental~~ insurance for
 15 a ~~volunteer~~ fire company."

16
 17 **Section 6.** Section 19-17-201, MCA, is amended to read:

18 **"19-17-201. Administration of chapter. (1)** The board ~~shall administer the Volunteer Firefighters'~~
 19 ~~Compensation Act and the volunteer firefighters' pension plan, and all payments made under 19-17-103,~~
 20 ~~19-17-405, 19-17-407, and 19-17-506 shall be made by warrants drawn by the board is the trustee of all~~
 21 money collected under this chapter and has exclusive control of the administration of the pension trust fund
 22 except as otherwise provided by law.

23 (2) The department shall deposit in the state treasury all amounts received by it as provided in this
 24 chapter.

25 (3) The state treasurer is the custodian of the pension trust fund, subject to the control of the
 26 board for the administration of the fund and the board of investments for the investment of the fund.

27 (4) The board shall review the sufficiency of benefits ~~paid by the retirement system~~ provided under
 28 this chapter and recommend to the legislature those changes in benefits that may be necessary for retired
 29 members and their beneficiaries to maintain a stable standard of living."

1 **Section 7.** Section 19-17-204, MCA, is amended to read:

2 "**19-17-204. ~~Office supplies to be a charge against the fund~~ Administrative expenses.** Necessary
3 expenses ~~of the board for office supplies, stationery, and forms in connection with~~ the administration of
4 the Volunteer Firefighters' Compensation Act and the volunteer firefighters' pension plan are a charge
5 against the pension trust fund. ~~The board shall draw from the fund through warrants at such intervals as~~
6 ~~it considers proper to pay these expenses.~~ The necessary administrative expenses attributable to this
7 chapter must be paid from the investment earnings on the public employees' pension trust fund. Before
8 fiscal yearend closing, the division shall compute the expenses directly or proportionally attributable to this
9 chapter over the past fiscal year and transfer that amount from the volunteer firefighters' pension trust fund
10 to the public employees' pension trust fund."

11

12 **Section 8.** Section 19-17-301, MCA, is amended to read:

13 "**19-17-301. Fire insurance premium tax to be paid into pension trust fund.** The state auditor and
14 ex officio commissioner of insurance shall annually deposit in the ~~volunteer firefighters' pension trust~~ pension trust fund
15 a sum equivalent to 5% of the premium taxes collected from insurers authorized to effect insurance against
16 risks enumerated in 19-18-512. The sum must be computed before the amounts provided for by
17 19-13-604 and 19-18-512 are deducted. ~~The moneys shall~~ money must be used for the payment of claims,
18 benefits, and administrative costs as provided in this chapter. The money is statutorily appropriated as
19 provided in 17-7-502."

20

21 **Section 9.** Section 19-17-302, MCA, is amended to read:

22 "**19-17-302. ~~Earnings to be part of moneys~~ Investment of pension trust fund.** ~~All earnings made~~
23 ~~by moneys received under 19-17-301 by reason of interest paid for the deposit thereof or otherwise shall~~
24 ~~be credited to and become a part of such moneys.~~ (1) The pension trust fund must be invested by the
25 board of investments as part of the unified investment program described in Title 17, chapter 6, part 2.

26 (2) All income earned on any assets constituting a part of the pension trust fund must be paid into
27 the pension trust fund as received.

28 (3) For investment purposes, the pension trust fund may be commingled with other pension funds
29 administered by the board, but a separate account must be maintained for each system."

30

1 **Section 10.** Section 19-17-401, MCA, is amended to read:

2 "**19-17-401. Eligibility for pension and disability benefits.** ~~(1) In order to~~ To qualify for participation
3 ~~in the volunteer firefighters' pension plan under 19-17-404, a volunteer firefighter shall~~ pension and
4 disability benefits under this chapter, a member shall meet each of the following requirements of
5 subsections (2) or (3) and (4):.

6 ~~(1) (a) (2) (a) To qualify for~~ For full participation pension benefits, a volunteer firefighter member
7 must have completed a total of at least 20 years' service as an active volunteer firefighter and as an active
8 member of a qualified volunteer fire company and must have attained 55 years of age, but need not be an
9 active member of a fire company when 55 years of age is reached.

10 ~~(b) If a firefighter~~ A member who is prevented from completing at least 20 years' service, the
11 ~~firefighter~~ member may qualify for partial ~~participation~~ pension benefits if the ~~firefighter has~~ member has completed
12 at least 10 years' service and has attained the 60 years of age of ~~60. In that event, the firefighter is eligible~~
13 ~~for only a proportion of the benefits specified in 19-17-404, determined by multiplying the benefits by a~~
14 ~~fraction, the numerator of which is the number of years of active service completed and the denominator~~
15 ~~of which is 20.~~

16 ~~(c) The years of active service are cumulative and need not be continuous. The service need not~~
17 ~~be acquired with one single fire company but may be a total of separate periods of active service with~~
18 ~~different fire companies in different fire districts.~~

19 ~~(d) Effective March 1, 1965, the annual period of service for the purpose of this chapter is the~~
20 ~~fiscal year. A fractional part of any year may not count toward the service requirement, and to receive~~
21 ~~credit for any particular year, a volunteer firefighter shall serve with one particular volunteer fire company~~
22 ~~throughout that entire fiscal year.~~

23 ~~(2) (a) Except as provided in subsection (2)(b), in order to receive pension benefits, a firefighter~~
24 ~~must have attained the age of 55, but need not be an active volunteer firefighter or an active member of~~
25 ~~any volunteer fire company when that~~ 60 years of age is reached.

26 ~~(b)(3)~~ (3) An active member of a ~~volunteer~~ fire company whose duty-related injury results in a
27 permanent total disability as ~~defined in 39-71-116~~ is eligible, regardless of age or service, to receive a
28 ~~partial pension calculated as follows:~~ disability benefit.

29 ~~(i) for a member with less than 10 years of service, a pension calculated as provided in subsection~~
30 ~~(1)(b) in which the numerator equals 10; or~~

1 ~~(ii) for a member with 10 years or more of service, a pension calculated as provided in subsection~~
 2 ~~(1)(b):~~

3 ~~(3) During each of the years for which credit is claimed under subsection (1), a firefighter must~~
 4 ~~have completed a minimum of 30 hours of instruction in matters pertaining to firefighting under a program~~
 5 ~~formulated and supervised by the chief or foreman of the volunteer fire company.~~

6 ~~(4) Effective July 1, 1965, a volunteer firefighter may not receive credit for any year of~~
 7 ~~membership in a volunteer fire company unless, throughout the year:~~

8 ~~(a) the company maintained firefighting equipment in serviceable condition of a value of \$2,500~~
 9 ~~or more; and~~

10 ~~(b) the company or the fire district served by it was rated in class 5, 6, 7, 8, 9, or 10 by the board~~
 11 ~~of fire underwriters for the purpose of fire insurance premium rates.~~

12 ~~(5)(4) In order to To receive pension or disability benefits, a volunteer firefighter must have ceased~~
 13 ~~to may not be an active member of any volunteer fire company, and if the A volunteer firefighter applies~~
 14 ~~for and receives who receives pension or disability benefits under this part, the firefighter is not eligible to~~
 15 ~~chapter may not become an active member of any volunteer fire company."~~

16

17 **Section 11.** Section 19-17-402, MCA, is amended to read:

18 "**19-17-402. Certificate of eligibility.** ~~On or before September 1 of each year, the The~~ chief or
 19 ~~foreman of every each~~ volunteer fire company that claims eligibility under this chapter shall, on or before
 20 ~~September 1 of each year, prepare and file with the board~~ a certificate on a form to be provided by the
 21 ~~board,~~ subscribed and verified under oath, stating whether or not his whether the company qualified under
 22 ~~19-17-401(4) [section 3(3)] during the preceding fiscal year and listing. The certificate must list the full~~
 23 ~~name, social security number, and residence address date of birth~~ of each member of his the fire company
 24 ~~who was a member for the entire fiscal year and~~ satisfactorily completed 30 hours of instruction during the
 25 ~~preceding fiscal year, as required by 19-17-401(3) [section 3(3)]. The verified certificate shall must~~ be
 26 ~~maintained in a permanent file by the board for the purpose of establishing service for members and~~
 27 ~~eligibility for participation in the volunteer firefighters' pension plan and shall be open for inspection as a~~
 28 ~~public record benefits."~~

29

30 **Section 12.** Section 19-17-403, MCA, is amended to read:

1 "**19-17-403. Procedure for claiming pension Application for benefits.** (1) ~~Anyone claiming eligibility~~
 2 ~~under the volunteer firefighters' pension plan must file his claim with the board upon~~ A member, surviving
 3 spouse, or dependent child shall apply for benefits on a form to be provided therefor by the board. The
 4 ~~claim must be filed on or before May 1 of the calendar year in which the claimant seeks to qualify for~~
 5 ~~participation in the pension plan.~~

6 (2) The ~~claim~~ application must contain:

7 (a) the name, address, and date of birth of the claimant ~~and of the volunteer firefighter, if he is not~~
 8 ~~the claimant~~ member, surviving spouse, or dependent child;

9 (b) ~~the fiscal year during which eligibility will commence~~ the date of birth of the member; and

10 (c) the fiscal years during which service as a ~~volunteer firefighter was rendered~~ an active member
 11 is claimed and the names of the ~~volunteer~~ fire companies with which the service was rendered.

12 (3) The board may require ~~such~~ any proof of age and service ~~as that~~ it may consider proper, but
 13 it must accept a certificate properly completed and timely filed under 19-17-402 or subsection (3) of section
 14 22, Chapter 157, Laws of 1977, as prima facie proof of ~~such~~ service.

15 (4) ~~If the claim is a qualified member properly filed and the claimant is found by the board to be~~
 16 ~~properly qualified to participate in the volunteer firefighters' pension plan, the name of the claimant shall~~
 17 ~~be added to the list of qualified persons and the claimant will then be~~ submits an application, the member
 18 is entitled to participate in the volunteer firefighters' pension plan receive benefits as of the ~~fiscal year~~
 19 ~~beginning July 1 next~~ first day of the month following the ~~filing~~ approval of the ~~claim~~ application."

20
 21 **Section 13.** Section 19-17-404, MCA, is amended to read:

22 "**19-17-404. Pension Amount of pension and disability benefits.** (1) ~~Each person who meets the~~
 23 ~~requirements set forth in 19-17-401 or, in the case of a beneficiary, 19-17-405(1) and who has completed~~
 24 ~~and filed a claim as provided in 19-17-403 is entitled to participate in the volunteer firefighters' pension plan~~
 25 ~~and to~~ eligible member must receive payments pension and disability benefits as provided in this section.

26 ~~(2) The payments must be computed each year in the following manner:~~

27 (a) ~~For fiscal years 1994 and 1995, the~~ The base pension benefit level is \$120 \$100 per month
 28 ~~for each retiree qualifying members who are eligible for full participation pension benefits under the~~
 29 ~~provisions of 19-17-401(1)(a).~~

30 (b) ~~Partial participation is~~ pension benefits are calculated under the provisions of 19-17-401(1)(b)

1 by multiplying the full pension benefit of \$100 by a fraction, the numerator of which is the member's years
2 of service and the denominator of which is 20.

3 ~~(b) Whenever at the close of business on the last day of a fiscal year there is a balance in the~~
4 ~~volunteer firefighters' fund in excess of \$6 million, the board shall set aside the amount to be paid to each~~
5 ~~qualifying claimant.~~

6 ~~(c) For the purpose of computation and payment of benefits under this section, if children of a~~
7 ~~volunteer firefighter become eligible for benefits, all the children of the volunteer firefighter must be treated~~
8 ~~collectively as one claimant.~~

9 ~~(3) If the amount of the benefit for a qualified claimant is at least \$20 per month throughout the~~
10 ~~succeeding fiscal year, the pension must be paid monthly on or before the last day of each month. If the~~
11 ~~amount of the benefit for a qualified claimant is less than \$20 per month, the qualified claimant's full~~
12 ~~pension for that year must be paid in one lump payment on or before December 15 of that year.~~

13 (2) The disability benefit paid to eligible members is calculated in the same manner as partial
14 pension benefits described in subsection (1)(b), except that the numerator may not be less than 10."

15

16 **Section 14.** Section 19-17-405, MCA, is amended to read:

17 **"19-17-405. Pension Survivorship benefits to surviving spouse or dependent children.** (1) ~~The~~
18 Subject to the limitation in subsection (3), survivorship benefits equal to the full or partial participation
19 pension shall benefits otherwise payable to the deceased member must be paid or continue to be paid to
20 the surviving spouse, if any, until such spouse's death or remarriage or, if the deceased volunteer firefighter
21 member left no surviving spouse but left a dependent child ~~or children under the age of 18~~, to the guardian
22 or other person having custody of the children dependent child ~~until the youngest child reaches the age of~~
23 ~~18.~~

24 (2) The pension shall survivorship benefit must be paid in each of the following circumstances:

25 (a) the death on or after July 1, ~~1985~~ 1995, of a ~~volunteer firefighter who has not reached the age~~
26 ~~of 55 but who has otherwise qualified for full participation member who had at least 10 years of service~~
27 and who was not receiving pension benefits; or

28 ~~(b) the death on or after July 1, 1985, of a volunteer firefighter who has not reached the age of~~
29 ~~55 but who has otherwise qualified for partial participation;~~

30 ~~(c)(b) the death on or after July 1, 1985, of a volunteer firefighter retired member after qualifying~~

1 ~~for full participation who was receiving pension benefits but before receiving payments totaling at least~~
 2 ~~\$4,000 who had not received benefits for a total of 40 months; or.~~

3 ~~(d) the death on or after July 1, 1985, of a volunteer firefighter after he has qualified for partial~~
 4 ~~participation but before he has received payments totaling the proportion of \$4,000 determined under the~~
 5 ~~formula prescribed in 19-17-401(1)(b).~~

6 ~~(2)(3) Payments Survivorship benefits under subsection (1) shall terminate, in the case of a full~~
 7 ~~participation pension, when benefits have been paid for a total of \$4,000 has been paid upon the pension~~
 8 ~~40 months, including any payments made pension or disability benefits paid to the volunteer firefighter~~
 9 ~~retiree before his death, or in the case of a partial participation pension, when a total of the proportion of~~
 10 ~~\$4,000 determined under the formula prescribed in 19-17-401(1)(b) has been paid upon the pension,~~
 11 ~~including any payments made to the volunteer firefighter before his death."~~

12
 13 **Section 15.** Section 19-17-407, MCA, is amended to read:

14 **"19-17-407. Payment of pension benefits — exemption Exemption from taxation.** ~~(1) All payments~~
 15 ~~under the volunteer firefighters' pension plan must be approved by the board and paid by warrants drawn~~
 16 ~~upon the pension trust fund, payable to the order of the individual qualified volunteer firefighter or the~~
 17 ~~beneficiary as provided in 19-17-405(1).~~

18 ~~(2) The first \$3,600 or the amount determined pursuant to 15-30-111(2)(c)(ii) of benefits received~~
 19 ~~under this part is exempt from state, county, and municipal taxation."~~

20
 21 **Section 16.** Section 19-17-408, MCA, is amended to read:

22 **"19-17-408. Medical review of certain disability retirees.** The board may require ~~the recipient of~~
 23 ~~a partial pension resulting from a permanent, total disability~~ a member who receives a disability benefit to
 24 undergo periodic medical examinations. The examinations must be made by a physician or surgeon at the
 25 ~~recipient's~~ member's residence or ~~another~~ a place mutually agreed on agreeable to the board and the
 26 member. Upon the basis of ~~the examination~~ these examinations and the advice of the board's consulting
 27 physician, the board shall determine, by reason of physical or mental capacity, whether the ~~recipient~~
 28 member remains permanently and totally disabled."

29
 30 **Section 17.** Section 19-17-409, MCA, is amended to read:

1 **"19-17-409. Cancellation and reinstatement of ~~certain pensions~~ disability benefits.** (1) The board
2 may cancel a ~~recipient's partial pension resulting from a permanent, total~~ member's disability benefit if:

3 (a) the board determines, as provided in 19-17-408, that the ~~recipient~~ member is no longer
4 ~~permanently and totally disabled as provided in 19-17-408;~~

5 (b) the ~~recipient~~ member refuses to submit to a medical examination under 19-17-408; or

6 (c) the ~~recipient~~ member engages in a gainful occupation during the previous year and ~~the~~
7 ~~compensation earned by him in that year exceeds~~ earns compensation exceeding \$5,500.

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

11 (3) If a ~~former recipient's~~ the member's earnings in any year after the cancellation of ~~his pension~~
12 disability benefits under subsection (1)(c) are less than \$5,500, ~~his pension~~ the disability benefit must be
13 reinstated."
14

15 **Section 18.** Section 19-17-501, MCA, is amended to read:

16 **"19-17-501. Eligibility for ~~disability medical and death benefits~~ funeral expenses.** (1) To qualify for
17 ~~benefits~~ medical expenses under 19-17-504, a volunteer firefighter must, ~~at the time the injury or sickness~~
18 ~~for which benefits are claimed was incurred, have been~~ be an ~~enrolled~~ active member of a fire company
19 that is not covered by workers' compensation insurance when the injury or illness occurs.

20 (2) To qualify for ~~benefits~~ funeral expenses under 19-17-505, a volunteer firefighter must, at the
21 time of death, ~~have been~~ be an ~~enrolled~~ active member of a fire company."
22

23 **Section 19.** Section 19-17-502, MCA, is amended to read:

24 **"19-17-502. Procedure for claiming ~~disability benefits~~ medical expenses.** (1) A ~~firefighter claiming~~
25 ~~benefits~~ member who claims medical expenses under 19-17-504 ~~must file his~~ shall submit a claim with the
26 ~~board~~ on a form ~~to be~~ provided by the board. The claim must be verified by the ~~claimant, the attending~~
27 ~~physician or surgeon and nurse, if any, and the person in charge of the hospital, if the claimant was~~
28 ~~confined~~ member and by competent medical authority. The claim must be ~~filed with the board~~ submitted
29 within 1 year from the date of ~~disability~~ incurring the injury or illness.

30 (2) The claim must contain:

- 1 (a) the name and address of the ~~claimant~~ member;
- 2 (b) the date, place, and manner of incurring ~~of disability~~ the injury or illness;
- 3 (c) the name and address of the attending physician, ~~or surgeon and/or,~~ or nurse, if any;
- 4 (d) the dates ~~of confinement, if confined, or if not confined, the dates of attendance by a physician~~
5 ~~or surgeon and the dates of attendance by a nurse~~ of hospitalization, if hospitalized;
- 6 (e) ~~the an~~ an affidavit ~~of from~~ from the attending physician, ~~or surgeon, or nurse as to~~ that describes the
7 nature of the ~~disability~~ injury or illness, the number and dates of visits, and the ~~charges~~ expenses;
- 8 (f) ~~if confined in a hospital, the~~ if hospitalized, an affidavit ~~of a person in charge from competent~~
9 authority stating the nature of the ~~disability~~ injury or illness, the dates of ~~confinement~~ hospitalization, and
10 the expenses incurred ~~while so confined~~;
- 11 (g) ~~the an~~ an affidavit ~~of from~~ from the chief or secretary of the fire company stating that the fire company
12 was duly organized under the laws of Montana in an unincorporated town or village, that the ~~claimant~~
13 member was, at the ~~date of disability~~ time of the injury or illness, an active ~~enrolled~~ member of the
14 company, and that the ~~disability~~ injury or illness was incurred in the line of duty as ~~defined~~ described in
15 19-17-105~~1~~;
- 16 (h) ~~the affidavit of the nurse stating the nature of the disability, the dates of attendance, and the~~
17 charges for services."

18

19 **Section 20.** Section 19-17-503, MCA, is amended to read:

20 "**19-17-503. Procedure for claiming death benefit funeral expenses.** ~~Anyone~~ A person claiming the
21 benefit funeral expenses provided for in 19-17-505 ~~must file his claim with the board upon~~ shall submit the
22 claim on a form ~~to be provided by the board, in accordance with such~~ the board's rules ~~as the board may~~
23 make."

24

25 **Section 21.** Section 19-17-504, MCA, is amended to read:

26 "**19-17-504. Disability benefits Medical expenses.** (1) ~~Each member of a fire company is entitled~~
27 ~~to receive compensation for disability~~ The board shall authorize payment of some or all medical expenses
28 resulting from an injury or illness that was incurred ~~while in the performance of his duties as a firefighter~~
29 in the line of duty, as defined described in 19-17-105, ~~when the disability necessitates and that required~~
30 the services of a physician, ~~or surgeon, or nurse, whether or not the member is confined or not~~ was

1 ~~hospitalized. The compensation shall~~ payments must equal the amount of the member's necessary and
 2 reasonable out-of-pocket medical expenses ~~resulting that resulted~~ directly from the disability injury or illness
 3 and ~~incurred that were billed~~ within 36 months ~~from following~~ the date of the injury ~~which caused the~~
 4 disability or illness. The total ~~compensation claim for reimbursement~~ may not exceed \$25,000.

5 (2) ~~When~~ If an injury incurred in the line of duty results in the loss by amputation of an arm, hand,
 6 leg, or foot, the enucleation of an eye, or the loss of any natural teeth, the board shall ~~order that an artificial~~
 7 ~~member be furnished. The expense of furnishing an artificial member may not exceed~~ authorize either a
 8 payment for the cost of a prosthesis or a payment of \$1,500 to help defray the cost of a prosthesis,
 9 whichever is less. The artificial member so furnished shall prosthesis may be replaced when necessary, but
 10 not more often than every 5 years, if necessary. The board shall authorize payment of not more than
 11 \$1,500 of the replacement costs."

12
 13 **Section 22.** Section 19-17-505, MCA, is amended to read:

14 **"19-17-505. ~~Death benefit~~ Funeral expenses.** ~~To~~ The board shall authorize payment of reasonable
 15 expenses or \$1,500, whichever is less, to aid in defraying the funeral expenses of a firefighter covered
 16 under this chapter an active member whose death occurs in the line of duty, ~~an amount not to exceed the~~
 17 ~~actual necessary and reasonable expenses or \$1,500, whichever is less, shall be allowed."~~

18
 19 **Section 23.** Section 19-17-506, MCA, is amended to read:

20 **"19-17-506. Payment of ~~disability~~ medical and death-benefit funeral expenses.** When a claim
 21 under 19-17-504 or 19-17-505 is received and approved by the board, ~~and is found to be in compliance~~
 22 ~~with 19-17-502 or, in the case of a claim under 19-17-505, with 19-17-503, the board must order the~~
 23 ~~allowance thereof and pay it by warrants drawn upon the volunteer firefighters' fund to the order of the~~
 24 ~~attending physician or surgeon, attending nurse, and hospital or the~~ payment must be made directly to the
 25 appropriate provider of the medical care or funeral services, as applicable."

26
 27 **NEW SECTION. Section 24. Codification instruction.** [Sections 1 through 3] are intended to be
 28 codified as an integral part of Title 19, chapter 17, and the provisions of Title 19, chapter 17, apply to
 29 [sections 1 through 3].
 30

1 NEW SECTION. Section 25. Effective date. [This act] is effective July 1, 1995.

2 -END-