1 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING & PERMANENT 2.5 PERCENT AD HO 4 COST-OF-LIVING BENEFIT INCREASE TO ALL CURRENT AND FUTURE RETIREES OF THE PUBL 5 EMPLOYEES', JUDGES', HIGHWAY PATROL OFFICERS', SHERIFFS', GAME WARDENS', MUNICIPA 6 7 POLICE OFFICERS', FIREFIGHTERS' UNIFIED, AND TEACHERS' RETIREMENT SYSTEMS; PROVIDING FOR GENERAL FUND CONTRIBUTIONS TO EACH RETIREMENT SYSTEM TO PAY FOR THE BENEFIT INCREASE: 8 AMENDING SECTIONS 19-3-904, 19-3-905, 19-3-1008, 19-5-404, 19-5-502, 19-5-601, 19-6-404, 9 10 19-6-502.19-6-601, 19-6-901, 19-7-503, 19-7-601, 19-7-901, 19-8-501, 19-8-504, 19-8-603, 19-8-701. 19-8-1001, 19-9-702, 19-9-804, 19-9-903, 19-9-1101, 19-13-604, 19-13-704, 19-13-803, 19-13-902, 11 19-20-804, AND 19-20-902, MCA; AND PROVIDING AN EFFECTIVE DATE." 12 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 14 15 16 NEW SECTION. Section 1. Ad hoc cost-of-living increase for members retired before July 1, 1997. 17 A member of the retirement system, or the member's contingent annuitant or statutory beneficiary, who received at least one monthly benefit payment before July 1, 1997, is entitled to a 2.5% permanent 18 increase in the monthly benefit paid after July 1, 1997. 19 20 21 NEW SECTION. Section 2. State contributions. The state of Montana shall contribute monthly from the general fund to the pension trust fund a sum equal to 0.53% of the total compensation of members 22 23 employed on and after July 1, 1997. 24 NEW SECTION. Section 3. State contributions. The state of Montana shall contribute monthly from 25 26 the general fund to the pension trust fund a sum equal to 0.33% of the total compensation of members 27 employed on and after July 1, 1997. 28 29 NEW SECTION. Section 4. State contributions. The state of Montana shall contribute monthly from the general fund to the pension trust fund a sum equal to 0.6% of the total compensation of members 30

Legislative Services Division

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1	employed on and after July 1, 1997.
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3	Section 5. Section 19-3-904, MCA, is amended to read:
4	"19-3-904. Amount of service retirement benefit. (1) The monthly amount of retirement benefit
5	payable to a member following service retirement is the greater of subsection (1)(a) or (1)(b) as follows:
6	(a) one fifty sixth 1.8303% of the member's final average salary multiplied by the number of years
7	of the member's total service credit; or
8	(b) a monthly annuity that is the actuarial equivalent of double the member's accumulated regula
9	contributions.
10	(2) If a member dies after retirement and has not elected an optional retirement allowance provided
11	for in 19-3-1501, the member's beneficiary will be paid the excess, if any, of the member's accumulated
12	contributions on the day on which the member's retirement allowance commenced over the total of the
13	retirement allowance payments made to the retired member."
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15	Section 6. Section 19-3-905, MCA, is amended to read:
16	"19-3-905. Adjustment of benefit for certain members. The minimum retirement benefit payable
17	to a vested member who has attained age 70 in service is an annuity of \$40 \$41 per a month."
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19	Section 7. Section 19-3-1008, MCA, is amended to read:
20	"19-3-1008. Benefit for disability. (1) The monthly amount of the retirement benefit payable to
21	a member eligible for disability retirement under the provisions of 19-3-1002(1) is the greater of subsection
22	(1)(a) or (1)(b) as follows:
23	(a) $90\%$ of $\frac{1.8303\%}{0.000}$ of the member's final average salary multiplied by the
24	member's years of service credit, including any additional service purchased under 19-3-513; or
25	(b) a retirement benefit equal to $\frac{25\%}{25.63\%}$ of the member's final average salary.

- under the provisions of 19-3-1002(3) is a retirement benefit equal to one fifty sixth 1.8303% of the member's final average salary multiplied by the member's years of service credit, including any additional
- 29 service purchased under 19-3-513.
  - (3) Subject to the provisions of part 11 of this chapter, a retired member receiving a disability

(2) The monthly amount of retirement benefit payable to a member eligible for disability retirement



retirement benefit on February 24, 1991, who has previously been granted a disability retirement benefit under the provisions of this section will continue to receive the monthly disability retirement benefit as calculated prior to February 24, 1991, subject to any postretirement or cost-of-living increases granted by the legislature."

### Section 8. Section 19-5-404, MCA, is amended to read:

"19-5-404. Contributions by state. (1) The state of Montana shall contribute monthly to the pension trust fund a sum equal to 6% 8.1% of the compensation of each member. In addition, the clerk of each district court shall transmit 68% of certain filing fees, as required under 25-1-201(2), and that portion of the fee for filing a petition for dissolution of marriage and a motion for substitution of a judge specified in 25-1-201(4) and (6) to the state, which shall first deposit in the pension trust fund an amount equal to 34.71% of the total compensation paid to district judges and supreme court justices who are covered by the judges' retirement system and then deposit the balance in the state general fund. The clerk of the supreme court shall pay one-fourth of the fees collected under 3-2-403 to the division to be credited to the pension trust fund.

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

# Section 9. Section 19-5-502, MCA, is amended to read:

"19-5-502. Service retirement benefit. Upon retirement from service, a member must receive a service retirement benefit equal to 3-1/3% 3.4163% per a year of the member's current salary for the first 15 years of credited service and 1.785% 1.8296% per a year for each year of credited service after 15 years."

# Section 10. Section 19-5-601, MCA, is amended to read:

"19-5-601. Disability retirement benefit. In case of the disability of a member, a disability retirement benefit must be granted the member in an amount actuarially equivalent to the service retirement benefit standing to the member's credit at the time of the member's disability retirement. If the disability is a direct result of any service to the Montana judiciary in the line of duty, the member must receive a



1	benefit equal to one half member's disability benefit must be no less than 51.25% of the member's final
2	current salary or the benefit provided in 19-5-502, whichever is greater."
3	
4	Section 11. Section 19-6-404, MCA, is amended to read:
5	"19-6-404. State's contribution. The state of Montana shall annually contribute to the pension
6	trust fund an amount equal to $\frac{36.28\%}{38.17\%}$ of the total compensation paid to the members from the
7	following sources:
8	(1) an amount equal to 26.10% of the total compensation of the members is payable from the
9	same source that is used to pay compensation to the members; and
10	(2) an amount equal to 10.18% of the total compensation of the members is payable from a portion
11	of the fees from driver's licenses and duplicate driver's licenses as provided in 61-5-121; and
12	(3) an amount equal to 1.89% of the total compensation of the members is payable from the
13	general fund."
14	
15	Section 12. Section 19-6-502, MCA, is amended to read:
16	"19-6-502. Service retirement benefit. Upon retirement from service, a member must receive a
17	service retirement benefit equal to $\frac{2.5\%}{2.5625\%}$ of the member's final average salary for each year of
18	service credit."
19	
20	Section 13. Section 19-6-601, MCA, is amended to read:
21	"19-6-601. Disability retirement benefit. (1) In case of the disability of a member, a disability
22	retirement benefit must be granted the member that is the actuarial equivalent of the service retirement
23	benefit under 19-6-502 standing to the member's credit at the time of the member's disability retirement.
24	If the disability is a direct result of any service to the Montana highway patrol in the line of duty, then the
25	member who is disabled must be retired on a disability retirement benefit of ene half 51.25% of the
26	member's final average salary regardless of the member's length of service.
27	(2) Upon the death of a retired member receiving a disability retirement benefit as provided in
28	subsection (1), the benefit must be paid to the member's surviving spouse or dependent child, if there is
29	a spouse or child, in the same manner as provided for in 19-6-505(2) and (3)."



1	Section 14. Section 19-6-901, MCA, is amended to read:
2	"19-6-901. Survivorship benefits employment-related death. (1) If the board finds that a member
3	died as a direct and proximate result of injury received in the course of the member's service, a survivorship
4	benefit must be paid to the member's surviving spouse or dependent child in the same manner as provided
5	for in 19-6-505(2) through (4).
6	(2) The retirement benefit must equal $\frac{50\%}{51.25\%}$ of the final average salary of the member."
7	
8	Section 15. Section 19-7-503, MCA, is amended to read:
9	"19-7-503. Service retirement benefit. (1) The amount of any service retirement benefit granted

(2) If a member dies after retirement and had not elected an optional retirement benefit provided for in 19-7-1001, the member's designated beneficiary must be paid the excess, if any, of the member's

to a member is 2.0834% 2.1355% of the member's final average salary for each year of service credit.

accumulated contributions at the time of retirement less payments made to the retired member."

Section 16. Section 19-7-601, MCA, is amended to read:

"19-7-601. Disability retirement benefit. In the case of the disability of a member, regardless of the member's length of service, a disability retirement benefit must be awarded to the member based on the actuarial equivalent of the member's service retirement benefit under 19-7-503 standing to the member's credit at the time of the member's disability retirement. If the disability is a direct result of the member's service as a member in the line of duty, then the member must be awarded a benefit of ene half 51.25% of the member's final average salary."

Section 17. Section 19-7-901, MCA, is amended to read:

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

- (1) a lump-sum payment of the accumulated contributions standing to the member's credit at the member's death;
- (2) a survivorship benefit equal to 2.0834% 2.1355% of the member's final average salary for each year of service credit actuarially reduced from age 65 or the date on which the member would have



1	completed 20 years of membership service, whichever provides a larger retirement benefit; or		
2	(3) a survivorship benefit that is no less than one half 51.25% of the member's final average salar		
3	if the board finds that the member died as a direct and proximate result of injuries received in the cours		
4	of employment."		
5			
6	Section 18. Section 19-8-501, MCA, is amended to read:		
7	"19-8-501. Contributions to pension trust fund. The following must be paid to the division and		
8	must be credited to the pension trust fund:		
9	(1) all contributions by the state from department of fish, wildlife, and parks money;		
10	(2) all contributions by the state game wardens; and		
11	(3) all interest on and increase of the investments and money in the pension trust fund; and		
12	(4) all contributions by the state from the general fund."		
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14	Section 19. Section 19-8-504, MCA, is amended to read:		
15	"19-8-504. State's contribution. Each month, the state treasurer shall pay to the pension trus		
16	fund <u>:</u>		
17	(1) out of the department of fish, wildlife, and parks funds, a sum equal to 8.15% of all members		
18	salaries <u>; and</u>		
19	(2) out of the general fund, a sum equal to 0.35% of all members' salaries."		
20			
21	Section 20. Section 19-8-603, MCA, is amended to read:		
22	"19-8-603. Service retirement benefit. The service retirement benefit is equal to 2% 2.05% of the		
23	member's final average salary for each year of service credit."		
24			
25	Section 21. Section 19-8-701, MCA, is amended to read:		
26	"19-8-701. Disability retirement benefit. (1) A member who is determined by the board to be		
27	disabled must be granted a disability retirement benefit in an amount calculated on the actuarial equivaler		
28	of the service retirement benefit standing to the member's credit at the time of the member's disability		
29	retirement.		



(2) If the disability is a direct result of any service to the department of fish, wildlife, and parks in

line of duty and the member has at least 10 years of membership service, the member who is disabled must be retired on a disability retirement benefit of one half 51.25% of the member's final average salary."

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Section 22. Section 19-8-1001, MCA, is amended to read:

"19-8-1001. Benefits upon employment-related death. If the board finds that a member died as a direct and proximate result of injury received in the course of the member's service, a monthly survivorship benefit must be paid to the member's designated beneficiary equal to 50% 51.25% of the final average salary of the member."

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Section 23. Section 19-9-702, MCA, is amended to read:

"19-9-702. State contribution. The state of Montana shall make its contributions through the state auditor out of the premium tax on motor vehicle property and casualty insurance policies. The payments must be made annually after the end of each fiscal year but no later than November 1 from the gross premium tax after deduction for cancellations and returned premiums. The division shall notify the auditor by September 1 of each fiscal year of the annual compensation paid to all active members during the preceding fiscal year. The state's contribution is 15.66% 16.91% of compensation paid to members on and after July 1, 1997."

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Section 24. Section 19-9-804, MCA, is amended to read:

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(1) A member who is eligible for service retirement must receive a retirement benefit equal to 2.5%

"19-9-804. Amount of service retirement benefit -- continuation of benefit after death of member.

(2) (a) Upon the death of a member receiving a service retirement benefit, the member's surviving

(b) If the member leaves one or more dependent children, then upon the member's death, if there

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2.5625% of the member's final average compensation for each year of service credit.

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spouse, if there is one, must receive a benefit equal to the amount of the member's benefit at the time of

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the member's death.

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is no surviving spouse, or upon the death of the surviving spouse, the member's surviving dependent child

28 or children collectively if there are more than one must receive the same monthly payments that a surviving

spouse would receive for as long as the child or one of the children remains a dependent child as defined

in 19-9-104. The payments must be made to the child's appointed guardian for the child's use. If there is



more than one dependent child, upon each child no longer qualifying as dependent under 19-9-104, the prorata payments to that child must cease and be made to the remaining children until all the children are no
longer dependent."

- Section 25. Section 19-9-903, MCA, is amended to read:
- "19-9-903. Amount of disability retirement benefit -- continuation of benefit after death of member. (1) A member who is eligible under 19-9-902 before earning 20 years of service credit must receive a disability retirement benefit equal to one half 51.25% of the member's final average compensation.
- (2) A member who is retired under 19-9-902 and who, at the time of the member's injury or disability, was eligible at the member's option to be retired under 19-9-801 but had elected to serve years in excess of 20 years of service credit and was then serving additional years must be paid for the additional years at the rate prescribed in 19-9-804.
- (3) Upon the death of a member receiving a disability retirement benefit under this section, the member's surviving spouse or dependent child is eligible for benefits as provided in 19-9-804."

- Section 26. Section 19-9-1101, MCA, is amended to read:
- "19-9-1101. Preretirement death benefits. (1) Upon the death of a member before retirement, the member's surviving spouse or dependent child is eligible for benefits equal to ene-half 51.25% of the member's final average salary as provided in 19-9-804.
- (2) Upon the death of an inactive nonvested member, the member's surviving spouse or dependent child is eligible for a refund of the member's accumulated contributions."

- Section 27. Section 19-13-604, MCA, is amended to read:
- "19-13-604. State contribution. (1) The state shall make its contributions through the state auditor from the premium taxes on the insurance risks enumerated in 19-18-512. These payments must be made annually to the pension trust fund after the end of each fiscal year but no later than November 1 from the gross premium taxes after deduction for cancellations and returned premiums. The division shall notify the auditor of the annual compensation, excluding overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid to all active members



1	during the preceding year.
2	(2) The state's contribution is $\frac{24.21\%}{25.69\%}$ of this total compensation on and after July 1,
3	<u>1997</u> .
4	(3) As soon as practicable after receipt of the state contribution, the division shall deposit it in the
5	pension trust fund."
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7	Section 28. Section 19-13-704, MCA, is amended to read:
8	"19-13-704. Amount of service retirement benefit. (1) (a) A member hired before July 1, 1981,
9	who elects to retire after having reached 20 years of membership service must receive a service retirement
10	benefit equal to the sum of:
11	(i) $50\% 51.25\%$ of the member's last monthly compensation for years of service credit up to and
12	including 20 years; and
13	(ii) $\frac{2\%}{2.05\%}$ of the member's last monthly compensation for each year of service credit after 20
14	years.
15	(b) A member hired before July 1, 1981, who elects to retire after having reached at least 10 years
16	but less than 20 years of membership service as an active member must receive a service retirement benefit
17	equal to $\frac{2\%}{2.05\%}$ of the member's last monthly compensation for each year of service credit. Upon the
18	retired member's death, the benefit must be made to the surviving spouse. If there is no surviving spouse
19	or if the surviving spouse dies and if the member leaves one or more dependent children, the children are
20	entitled to receive the allowance as long as they remain dependent children as defined in 19-13-104.
21	(2) A member hired on or after July 1, 1981, who retires with at least 10 years of membership
22	service must receive a service retirement benefit equal to $\frac{2\%}{2.05\%}$ of the member's final average
23	compensation for each year of service credit."
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25	Section 29. Section 19-13-803, MCA, is amended to read:
26	"19-13-803. Amount of disability retirement benefit. (1) A member hired before July 1, 1981, who
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- o becomes disabled: 27
  - (a) before completing 20 years of membership service must receive a disability retirement benefit equal to one half 51.25% of the member's last monthly compensation;
    - (b) after completing 20 years or more of membership service must receive the disability retirement



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- benefit provided in subsection (1)(a) increased at a rate of 2% 2.05% of the member's last monthly compensation for each year of service credit in excess of 20 years.
  - (2) A member hired on or after July 1, 1981, who becomes disabled:
  - (a) before completing 25 years of membership service must receive a disability retirement benefit equal to one half 51.25% of the member's last monthly compensation;
  - (b) after completing 25 years or more of membership service must receive the disability retirement benefit provided in subsection (2)(a) increased at a rate of  $\frac{2\%}{2.05\%}$  of the member's last monthly compensation for each year of service credit in excess of 25 <u>years</u>.
  - (3) A member's disability retirement benefit must be paid first to the member during the member's lifetime and, upon the member's death, to the member's surviving spouse. If upon a member's death the member leaves no surviving spouse or upon the death of the surviving spouse, the member's benefit must be paid to the member's dependent children as long as they remain dependent children as defined in 19-13-104."

 Section 30. Section 19-13-902, MCA, is amended to read:

"19-13-902. Survivorship benefit. (1) (a) Upon the death before retirement of an active member hired before July 1, 1981, the member's surviving spouse, if there is one, must receive a survivorship benefit equal to ene half 51.25% of the last monthly compensation received by the member. If the member leaves one or more dependent children, then, upon the member's death if the member leaves no surviving spouse or upon the death of the surviving spouse, the member's dependent children must collectively receive the same benefit that a surviving spouse would have received, as long as the children remain dependent children as defined in 19-13-104.

- (b) If the deceased member completed over 20 years of membership service, the survivorship benefit provided in subsection (1)(a) must be increased at a rate of  $\frac{2\%}{2.05\%}$  of the last monthly compensation for each year in excess of 20 years.
- (2) Upon the death before retirement of a member hired on or after July 1, 1981, the member's surviving spouse, if there is one, must receive a survivorship benefit equal to one half 51.25% of the member's final average compensation. If the member leaves one or more dependent children, then, upon the member's death if the member leaves no surviving spouse or upon the death of the surviving spouse, the member's dependent children must collectively receive the same benefit that a surviving spouse would



have received, as long as the children remain dependent children as defined in 19-13-104."

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Section 31. Section 19-20-804, MCA, is amended to read:

"19-20-804. Allowance for superannuation retirement. (1) Upon superannuation retirement, a member shall must receive a retirement allowance consisting of a pension which that, together with an annuity, provides a retirement allowance equal to one-sixtieth 1.708% of his the member's average final compensation multiplied by the sum of the number of years of creditable service, service transferred under 19-20-409, and additional service purchased under 19-20-412.

- (2) Any A retired member may be employed as a part-time or substitute teacher in Montana and may earn, without loss of retirement benefits, an amount not to exceed the greater of:
- (a) one-third of the sum of his the member's average final compensation plus normal annual salary increases for teaching personnel employed by the school district, state agency, political subdivision, or university unit that employed the member at the time of retirement; or
- (b) one-third of the median of the average final compensation for members retired during the preceding fiscal year as determined by the retirement board."

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- Section 32. Section 19-20-902, MCA, is amended to read:
- "19-20-902. Allowance for disability retirement. Upon retirement for disability, a member must receive a disability retirement allowance equal to:
- (1) ene-sixtieth 1.708% of the member's average final compensation multiplied by the sum of the number of years of creditable service, service transferred under 19-20-409, and additional service purchased under 19-20-412, if the retirement allowance exceeds one-fourth of the member's average final compensation; or
- (2) a pension that, together with the member's annuity, provides a total retirement allowance equal to one-fourth of the member's average final compensation."

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- <u>NEW SECTION.</u> **Section 33. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 19, chapters 2 and 20, and the provisions of Title 19, chapters 2 and 20, apply to [section 1].
- (2) [Section 2] is intended to be codified as an integral part of Title 19, chapter 3, and the



1	provisions of Title 19, chapter 3, apply to [section 2].
2	(3) [Section 3] is intended to be codified as an integral part of Title 19, chapter 7, and the
3	provisions of Title 19, chapter 7, apply to [section 3].
4	(4) [Section 4] is intended to be codified as an integral part of Title 19, chapter 20, and the
5	provisions of Title 19, chapter 20, apply to [section 4].
6 .	
7	NEW SECTION. Section 34. Effective date. [This act] is effective July 1, 1997.
R	-END-

#### STATE OF MONTANA - FISCAL NOTE

## Fiscal Note for HB0324, as introduced

<u>pescription of Proposed Legislation</u>: The bill provides a 2.5 percent increase in the retirement benefits paid to all current and future retirees in the Public Employees', Teachers', Judges', Game Wardens', Highway Patrol Officers', Municipal Police Officers', and Firefighters' Unified Retirement Systems. The benefit increases are actuarially funded through increased contributions from the state general fund.

### ASSUMPTIONS:

### Public Employees' Retirement System (PERS):

- 1. The total actuarial cost of funding the 2.5% increase in PERS is additional contributions equal to 0.53% of total PERS payroll.
- 2. The total fiscal year 1996 payroll was \$608,592,099. Payrolls are estimated to increase by 3.5% per year. The total payroll consists of 44.5% state employees, 8.7% university employees, and 46.8% local government/school district employees.
- university employees, and 46.8% local government/school district employees.

  3. It is estimated that the general fund pays approximately 40% of the costs of PERS for state employees payroll and 60% of costs for university employees payroll.

## Judges' Retirement System (JRS):

- 4. The total actuarial cost of funding the 2.5% increase in JRS is additional contributions equal to 2.1% of total JRS payroll.
- 5. The total covered payroll for the JRS during fiscal year 1997 and fiscal year 1998 will be \$3,206,597 each year, of which \$72,042 will represent the salary for the chief water judge.

### Game Wardens' Retirement System (GWRS):

- 6. The total actuarial cost of funding the 2.5% increase in GWRS is additional contributions equal to 0.35% of total GWRS payroll.
- 7. The fiscal year 1996 covered payroll totaled \$2,761,752. Payrolls will increase by 3.9% per year in the future.

# Sheriffs' Retirement System (SRS):

- 8. The total actuarial cost of funding the 2.5% increase in SRS is additional contributions equal to 0.33% of total SRS payroll.
- 9. The fiscal year 1996 covered payroll totaled \$17,889,806. Payrolls will increase by 6.9% per year in the future.

#### Highway Patrol Officers' Retirement System (HPORS):

- 10. The total actuarial cost of funding the 2.5% increase in HPORS is additional contributions equal to 1.89% of total HPORS payroll.
- 11. The fiscal year 1996 payroll totaled \$6,241,716. Payrolls will increase by 4.5% per year in the future.

## Municipal Police Officers' Retirement System (MPORS):

- 12. The total actuarial cost of funding the 2.5% increase in MPORS is additional contributions equal to 1.25% of total MPORS payroll.
- 13. The fiscal year 1996 payroll totaled \$15,827,596. Payrolls will increase by 6.8% per year in the future.

### Firefighters' Unified Retirement System (FURS):

- 14. The total actuarial cost of funding the 2.5% increase in FURS is additional contributions equal to 1.48% of total FURS payroll.
- 15. The fiscal year 1996 payroll totaled \$13,782,660. Payrolls will increase by 5.3% per year in the future.

#### Teachers' Retirement System (TRS):

- 16. The total actuarial cost of funding the 2.5% increase in TRS is additional contributions equal to 0.60% of total TRS payroll.
- 17. The total TRS payroll is estimated to be \$517,640,200 in fiscal year 1998 and \$533,345,808 in fiscal year 1999.

(Continued)

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

ED GRADY, PRIMARY SPONSOR

DATE

Fiscal Note Request, <u>HB0324</u>, <u>as introduced</u> Page 2 (continued)

## Public Employees' Retirement Division (PERD):

Implementing the proposal will require programming changes to both the "ctive" and "retired" computerized accounting systems. Additional data processing and programming costs of \$75,000 in fiscal year 1998 are not included in the agency's present law base.

### Teachers' Retirement Division (TRD):

19. Implementing the proposal will require an additional \$10,000 in administrative expenses in fiscal year 1998 above the present law base.

### FISCAL IMPACT:

	FY98	F <b>Y</b> 99
<pre>Expenditures: Contributions to pension trust funds</pre>	Difference	<u>Difference</u>
General fund (01)	6,835,180	7,061,208
Insurance premium tax account (02)	451,845	479,178
PERD:	75.000	0
Operating expenses	75,000	v
Funding: PERD pension trust funds (09)	75,000	0
TRD:		
Operating expenses	10,000	0
Funding:		
TRS pension trust fund (09)	10,000	0
Revenues:		4470 4701
General fund (from premium tax) (01)	(451,845)	(479, 178)
Net Impact on Fund Balance: (Revenue General fund (01)	minus expense) (7,287,025)	(7,540,386)
	1.,00,,000,	(,,0.5,000)

## LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The annual general fund contributions to the respective retirement systems will increase at the rate of covered payroll increases in each system. Approximately 2.5% of the total benefit increases will be recovered in general fund income tax revenues. This estimated revenue is not included in the revenues and net impact shown above, but is estimated to be approximately \$158,000 in fiscal year 2000 and \$170,000 in fiscal year 2001.

#### TECHNICAL NOTES:

This bill will need to be coordinated with other legislation impacting these retirement systems (for example: HB 61, HB 169, HB 170, HB 173, SB 124, LC 456, LC 544, LC 607, LC 826, LC 889, LC 939, LC 957, and LC 1076).

APPROVED BY COM ON HUMAN SERVICES

'	SEINATE BILL NO. 324
2	INTRODUCED BY ESTRADA, SANDS, BAER, HARP, HALLIGAN, FRANKLIN, FOSTER, COCCHIARELLA,
3	KOTTEL, KRENZLER, MCCARTHY, NELSON, EMERSON, JENKINS, DEPRATU, MOHL, COLE, MCNUTT,
4	GROSFIELD, MESAROS, HARGROVE, DOHERTY, MAHLUM, KEATING
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR COVERAGE OF POSTMASTECTOMY CARE AS
7	DETERMINED BY A <u>AN ATTENDING</u> PHYSICIAN AND PATIENT <u>OR, FOR AN HMO, BY A PRIMARY CARE</u>
8	PHYSICIAN, ATTENDING PHYSICIAN, AND PATIENT; PROVIDING FOR COVERAGE OF RECONSTRUCTIVE
9	SURGERY FOLLOWING A MASTECTOMY; REQUIRING WRITTEN INFORMED CONSENT FOR PATIENTS
10	RECEIVING TREATMENT FOR BREAST CANCER; CLARIFYING THAT THE SMALL EMPLOYER HEALTH
11	INSURANCE AVAILABILITY ACT MUST OFFER COVERAGE FOR MAMMOGRAPHY EXAMINATIONS; AND
12	AMENDING SECTIONS 33-22-101, 33-22-1827, AND 33-31-111, AND 33-35-306, MCA; AND PROVIDING

CENIATE DILL NO. 224

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AN APPLICABILITY DATE."

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

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NEW SECTION. Section 1. Postmastectomy care. Each group and individual disability policy, certificate of insurance, or membership contract that is delivered, issued for delivery, renewed, extended, or modified in this state must provide coverage for hospital inpatient care for a period of time as is determined by the attending physician AND, IN THE CASE OF A HEALTH MAINTENANCE ORGANIZATION, ALSO THE PRIMARY CARE PHYSICIAN, in consultation with the patient, to be medically appropriate NECESSARY following a mastectomy, a lumpectomy, or a lymph node dissection for the treatment of breast cancer. THIS SECTION ALSO APPLIES TO THE STATE EMPLOYEE GROUP INSURANCE PROGRAM, THE UNIVERSITY SYSTEM EMPLOYEE GROUP INSURANCE PROGRAM, ANY EMPLOYEE GROUP INSURANCE PROGRAMOF A CITY, TOWN, COUNTY, SCHOOL DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THE STATE, AND ANY SELF-FUNDED MULTIPLE EMPLOYER WELFARE ASSOCIATION ARRANGEMENT THAT IS NOT REGULATED BY THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

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<u>NEW SECTION.</u> Section 2. Coverage for reconstructive breast surgery after mastectomy. (1) Each group and individual disability policy, certificate of insurance, or membership contract that is delivered,



- issued for delivery, renewed, extended, or modified in this state must provide coverage for reconstructive breast surgery resulting from a mastectomy that resulted from breast cancer.
- (2) Each group and individual disability policy, certificate of insurance, or membership contract that is delivered, issued for delivery, renewed, extended, or modified in this state must provide coverage for all stages of one reconstructive breast surgery on the nondiseased breast to establish symmetry with the diseased breast after definitive reconstructive breast surgery on the diseased breast has been performed.
  - (3) For the purposes of this section:
  - (a) "mastectomy" means the surgical removal of all or part of a breast as a result of breast cancer;
- (b) "reconstructive breast surgery" means surgery performed as a result of a mastectomy to reestablish symmetry between the breasts. The term includes augmentation mammoplasty, reduction mammoplasty, and mastopexy.
- (4) Benefits for reconstructive breast surgery include but are not limited to the costs of prostheses and, under any contract providing outpatient x-ray or radiation therapy, benefits for outpatient chemotherapy following surgical procedures in connection with the treatment of breast cancer that must be included as a part of the outpatient x-ray or radiation therapy benefit.

NEW SECTION. Section 3. Written informed consent for breast cancer treatment. (1) For the purpose of this section, "written informed consent" means an agreement in writing that is freely executed by the patient that certifies that full disclosure has been made to the patient about:

- (a) the full range of efficacious medical treatment alternatives that may be viable, including surgical procedures relating to the removal of breast tissue, radiological or chemotherapeutic treatments or any other generally accepted medical treatment, or combinations of procedures and treatments;
- (b) the advantages, disadvantages, risks, and descriptions of the procedures and treatments listed in subsection (1)(a); and
  - (c) aspects of recovery, including the options that are available for reconstructive surgery.
- (2) Failure of a physician or surgeon to provide written informed consent as provided in subsection (1) constitutes unprofessional conduct.

- Section 4. Section 33-22-101, MCA, is amended to read:
- 30 "33-22-101. Exceptions to scope. Parts 1 through 4 of this chapter, except 33-22-107,



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expense coverage;

1	33-22-110, 33-22-111, 33-22-114, 33-22-125, 33-22-130 through 33-22-132, [sections 1 and 2],
2	33-22-243, and 33-22-304, do not apply to or affect:
3	(1) any policy of liability or workers' compensation insurance with or without supplementary

- (2) any group or blanket policy;
- (3) life insurance, endowment, or annuity contracts or supplemental contracts that contain only those provisions relating to disability insurance as:
- (a) provide additional benefits in case of death or dismemberment or loss of sight by accident or accidental means; or
- (b) operate to safeguard contracts against lapse or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant becomes totally and permanently disabled, as defined by the contract or supplemental contract;
  - (4) reinsurance."

- Section 5. Section 33-22-1827, MCA, is amended to read:
- "33-22-1827. Benefits required in basic health benefit plan. (1) The basic health benefit plan must
   provide at least the following benefits:
  - (a) coverage for the services and articles required by 33-22-1521(2);
- (b) coverage for mental health and chemical dependency required by Title 33, chapter 22, part 7;and
- 21 (c) coverage for conversion of benefits required by 33-22-508 and 33-22-510 or by 33-30-1007; and
  - (d) coverage for mammography examinations required by 33-22-132.
  - (2) The small employer carrier may determine varying levels of deductibles, copayments, maximum annual out-of-pocket expenses, maximum lifetime benefits, and other financial cost-sharing arrangements with the insured that give the basic health benefit plan a lower benefit value than the standard health benefit plan.
  - (3) A basic health benefit plan provided by a health maintenance organization or a basic health benefit plan with a restricted network provision must provide a comparable level of benefits to those required by subsections (1) and (2), as determined by the benefit equivalency and benefit value."



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Section 6. Section 33-31-111, MCA, is amended to read:

"33-31-111. Statutory construction and relationship to other laws. (1) Except as otherwise provided in this chapter, the insurance or health service corporation laws do not apply to any health maintenance organization authorized to transact business under this chapter. This provision does not apply to an insurer or health service corporation licensed and regulated pursuant to the insurance or health service corporation laws of this state except with respect to its health maintenance organization activities authorized and regulated pursuant to this chapter.

- (2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority or its representatives may not be construed as a violation of any law relating to solicitation or advertising by health professionals.
- (3) A health maintenance organization authorized under this chapter may not be considered to be practicing medicine and is exempt from Title 37, chapter 3, relating to the practice of medicine.
- (4) The provisions of this chapter do not exempt a health maintenance organization from the applicable certificate of need requirements under Title 50, chapter 5, parts 1 and 3.
- (5) The provisions of this section do not exempt a health maintenance organization from material transaction disclosure requirements under 33-3-701 through 33-3-704. A health maintenance organization must be considered an insurer for the purposes of 33-3-701 through 33-3-704.
- (6) The provisions of this section do not exempt a health maintenance organization from the requirements of [sections 1 and 2]."

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## SECTION 7. SECTION 33-35-306, MCA, IS AMENDED TO READ:

- "33-35-306. Application of insurance code to arrangements. (1) In addition to this chapter, self-funded multiple employer welfare arrangements are subject to the following provisions of Title 33:
- (a) Title 33, chapter 1, part 4, but the examination of a self-funded multiple employer welfare arrangement is limited to those matters to which the arrangement is subject to regulation under this chapter;
- 27 (b) Title 33, chapter 1, part 7;
- 28 (c) 33-3-308; and
- 29 (d) Title 33, chapter 18, except 33-18-242; and
- 30 (e) [sections 1 and 2].



1	(2) Except as provided in this chapter, other provisions of Title 33 do not apply to a self-funded
2	multiple employer welfare arrangement that has been issued a certificate of authority that has not been
3	revoked."
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5	NEW SECTION. Section 8. Codification instruction. (1) [Sections 1 and 2] are intended to be
6	codified as an integral part of Title 33, chapter 22, part 1, and the provisions of Title 33, chapter 22, part
7	1, apply to [sections 1 and 2].
8	(2) [Section 3] is intended to be codified in Title 37, chapter 3, and the provisions of Title 37,
9	chapter 3, apply to [section 3].
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11	NEW SECTION. SECTION 9. APPLICABILITY. [THIS ACT] IS APPLICABLE TO ALL CONTRACTS
12	ISSUED OR RENEWED ON OR AFTER JANUARY 1, 1998.
13	-END-