

1 *Smjtkins* House BILL NO. 430  
 2 INTRODUCED BY *Smjtkins* *Norte/Boston* *Christensen* *Diablo*  
 3 *Christensen* *For the People Board* *Christensen* *Christensen* *Clark*

4 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE SERVICE RETIREMENT BENEFIT FOR CERTAIN  
 5 MEMBERS OF THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM TO 2.5 PERCENT OF FINAL AVERAGE  
 6 COMPENSATION FOR EACH YEAR OF SERVICE; USING FINAL AVERAGE COMPENSATION IN THE  
 7 CALCULATION OF DISABILITY BENEFITS INSTEAD OF FINAL MONTHLY COMPENSATION; RAISING  
 8 CONTRIBUTIONS; INCREASING GENERAL FUND REVENUES BY PROVIDING THAT EXCESS INSURANCE  
 9 PREMIUM TAXES BE DEPOSITED TO THE STATE GENERAL FUND; PROVIDING AN ACTUARIAL FUNDING  
 10 MECHANISM TO PAY MINIMUM BENEFIT INCREASES; REDUCING THE NUMBER OF YEARS REQUIRED  
 11 FOR VESTING; CLARIFYING THE DATE ON WHICH RETIREMENT BENEFITS MAY COMMENCE; AMENDING  
 12 SECTIONS 19-13-104, 19-13-301, 19-13-601, 19-13-604, 19-13-701, 19-13-704, 19-13-803, 19-13-902,  
 13 19-13-1007, AND 19-18-606, MCA; REPEALING SECTIONS 19-13-615, 19-13-1006, AND 19-13-1009,  
 14 MCA; AND PROVIDING AN EFFECTIVE DATE."

15  
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17  
 18 **Section 1.** Section 19-13-104, MCA, is amended to read:

19 **"19-13-104. Definitions.** Unless the context requires otherwise, the following definitions apply  
 20 in this chapter:

21 (1) Any reference to "city" or "town" includes those jurisdictions ~~which~~ that, ~~prior to~~ before the  
 22 effective date of a county-municipal consolidation, were incorporated municipalities, subsequent districts  
 23 created for urban firefighting services, or the entire county included in the county-municipal consolidation.

24 (2) "Compensation" means:

25 (a) for a full-paid firefighter, the regular remuneration, excluding overtime, holiday payments, shift  
 26 differential payments, compensatory time payments, and payments in lieu of sick leave, paid by an  
 27 employer for the firefighter's service as a firefighter;

28 (b) for a part-paid firefighter employed by a city of the second class:

29 (i) 15% of the regular remuneration, excluding overtime, holiday payments, shift differential  
 30 payments, compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year

1 to a newly confirmed, full-paid firefighter of the city that employs the part-paid firefighter; or

2 (ii) if that city does not employ a full-paid firefighter, 15% of the average regular remuneration,  
3 excluding overtime, holiday payments, shift differential payments, compensatory time payments, and  
4 payments in lieu of sick leave, paid on July 1 of each year to all newly confirmed, full-paid firefighters  
5 employed by cities of the second class.

6 (3) "Dependent child" means a child of a deceased member who is:

7 (a) unmarried and under age 18; or

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

10 (4) "Employer" means any city that is of the first or second class or that elects to join this  
11 retirement system under 19-13-211.

12 (5) "Final average compensation" means the monthly compensation of a member ~~hired on or after~~  
13 ~~July 1, 1981~~, averaged over the last 36 months of the member's active service or, if the member has not  
14 been a member that long, over the period of the member's service. Lump-sum payments for annual leave  
15 paid to the member upon termination of service may be used to replace, on a month-for-month basis, the  
16 normal compensation for a month or months included in the calculation of final average compensation.

17 (6) "Firefighter" means a person employed as a full-paid or part-paid firefighter by an employer.

18 (7) "Full-paid firefighter" means a person appointed as a firefighter under 7-33-4106.

19 ~~(8) "Last monthly compensation" means the compensation paid to a member during the member's~~  
20 ~~last full month of service. Lump sum payments for annual leave paid to the member upon termination of~~  
21 ~~service may not be included in the calculation of last monthly compensation.~~

22 ~~(9)~~(8) "Minimum retirement date" means the first day of the month coinciding with or immediately  
23 following, if none coincides, the date on which a member becomes both age 50 or older and completes 10  
24 or more years of membership service.

25 ~~(10)~~(9) "Part-paid firefighter" means a person employed under 7-33-4109 who receives  
26 compensation in excess of \$300 a year for service as a firefighter.

27 ~~(11)~~(10) "Prior plan" means the fire department relief association plan of a city that elects to join  
28 the retirement system under 19-13-211 or the fire department relief association plan of a city of the first  
29 or second class.

30 ~~(12)~~(11) "Retirement date" means the date on which the first payment of benefits is payable.

1           ~~(13)~~(12) "Surviving spouse" means the spouse married to a member at the time of the member's  
2 death."

3  
4           **Section 2.** Section 19-13-301, MCA, is amended to read:

5           **"19-13-301. Active membership -- inactive vested member -- inactive nonvested member.** (1) A  
6 full-paid firefighter becomes an active member of the retirement system:

7           (a) on the first day of the firefighter's service with an employer;

8           (b) on July 1, 1981, if the firefighter is employed by an employer on that date; or

9           (c) in the case of an employer ~~that~~ who, elects to join the retirement system as provided in  
10 19-13-211, on the effective date of the election if the firefighter is employed by the employer on that date.

11           (2) Upon becoming eligible for membership, the firefighter shall complete the forms and furnish any  
12 proof required by the board.

13           (3) A part-paid firefighter may elect to become a member of the retirement system by filing a  
14 membership application with the board.

15           (4) An active member becomes an inactive member upon the occurrence of the earliest of the  
16 following:

17           (a) the date the member ceases service with an employer;

18           (b) the 31st day of an approved absence from active duty with an employer; or

19           (c) the date the member ceases to be employed because of a reduction of the number of  
20 firefighters in the fire department as provided in 7-33-4125.

21           (5) A member with at least ~~40~~ 5 years of membership service who terminates service and does not  
22 take a refund of accumulated contributions is an inactive vested member and retains the right to purchase  
23 service and to receive a retirement benefit under the provisions of this chapter.

24           (6) A member with less than ~~40~~ 5 years of membership service who terminates service and leaves  
25 the member's accumulated contributions in the pension trust fund is an inactive nonvested member and  
26 is not eligible for any benefits from the retirement system. An inactive nonvested member is eligible only  
27 for a refund of the member's accumulated contributions."

28  
29           **Section 3.** Section 19-13-601, MCA, is amended to read:

30           **"19-13-601. Deduction remitted to firemen's association -- member's contribution.** (1) Each

1 employer shall retain from the compensation of each active member a sum equal to 1% of the member's  
2 compensation for services as a firefighter and shall remit this amount on a monthly basis to the Montana  
3 state firemen's association for the payment of premiums on a group life and accidental death and  
4 dismemberment insurance policy for members and to defray expenses incurred by the association when  
5 representing members of the retirement system.

6 (2) The member's contribution to the retirement system is ~~7.8%~~ 9.5% of the member's  
7 compensation.

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

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

16 (5) The member's contributions picked up by the employer must be designated for all purposes of  
17 the retirement system as the member's contributions, except for the determination of a tax upon a  
18 distribution from the retirement system. These contributions must become part of the member's  
19 accumulated contributions but must be accounted for separately from those previously accumulated.

20 (6) The member's contributions picked up by the employer must be payable from the same source  
21 as is used to pay compensation to the member and must be included in the member's compensation as  
22 defined in 19-13-104. The employer shall deduct from the member's compensation an amount equal to the  
23 amount of the member's contributions picked up by the employer and remit the total of the contributions  
24 to the board."

25

26 **Section 4.** Section 19-13-604, MCA, is amended to read:

27 **"19-13-604. State contribution.** The state shall make its contributions through the state auditor  
28 from the premium taxes on the insurance risks enumerated in 19-18-512. These payments must be made  
29 annually to the pension trust fund after the end of each fiscal year but no later than November 1 from the  
30 gross premium taxes after deduction for cancellations and returned premiums. The division shall notify the

1 auditor of the annual compensation, excluding overtime, holiday payments, shift differential payments,  
 2 compensatory time payments, and payments in lieu of sick leave, paid to all active members during the  
 3 preceding year. The state's contribution is ~~24.21%~~ 32.24% of this total compensation. As soon as  
 4 practicable after receipt of the state contribution, the division shall deposit it in the pension trust fund."  
 5

6 **Section 5.** Section 19-13-701, MCA, is amended to read:

7 **"19-13-701. Eligibility for service retirement -- commencement of benefit.** (1) A member who has  
 8 completed 20 years or more of membership service is eligible for service retirement commencing on the first  
 9 day of the month following the member's last day of service.

10 (2) A vested member who terminates service before the minimum retirement date and keeps the  
 11 member's accumulated contributions on deposit is eligible for service retirement commencing on the  
 12 member's minimum retirement date.

13 (3) A vested inactive member may file a written application with the board requesting that the  
 14 member's retirement benefit commence on the first day of the month following receipt of the application.  
 15 However, the retirement benefit for an inactive vested member must commence no ~~later~~ earlier than the  
 16 first day of the month following the member's ~~55th~~ 50th birthday."  
 17

18 **Section 6.** Section 19-13-704, MCA, is amended to read:

19 **"19-13-704. Amount of service retirement benefit.** (1) ~~(a) A member hired before July 1, 1981,~~  
 20 ~~who elects to retire after having reached 20 years of membership service must receive a service retirement~~  
 21 ~~benefit equal to the sum of:~~

22 ~~(i) 50% of the member's last monthly compensation for years of service credit up to and including~~  
 23 ~~20 years; and~~

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

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

1 ~~(2) A~~ Except as provided in subsection (2), a member ~~hired on or after July 1, 1981,~~ who retires  
 2 with at least ~~40~~ 5 years of membership service must receive a service retirement benefit equal to ~~2%~~ 2.5%  
 3 of the member's final average compensation for each year of service credit.

4 (2) (a) A member initially hired before July 1, 1981, who retires with less than 20 years of service  
 5 must receive a service retirement benefit equal to 2% of the member's final monthly compensation for each  
 6 year of service or the benefit provided under subsection (1) whichever is greater.

7 (b) A member initially hired before July 1, 1981, who retires with 20 years of service or more must  
 8 receive a service retirement benefit equal to 50% of the member's final monthly compensation plus 2% of  
 9 the member's final monthly compensation for each year of service over 20 years or the benefit provided  
 10 in subsection (1) whichever is greater."

11  
 12 **Section 7.** Section 19-13-803, MCA, is amended to read:

13 **"19-13-803. Amount of disability retirement benefit.** (1) A member ~~hired before July 1, 1981,~~ who  
 14 becomes disabled:

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

17 (b) after completing 20 years or more of membership service must receive ~~the~~ a disability  
 18 retirement benefit ~~provided in subsection (1)(a) increased at a rate of 2%~~ equal to 2.5% of the member's  
 19 ~~last monthly~~ final average compensation for each year of service credit ~~in excess of 20.~~

20 (2) ~~A member hired on or after July 1, 1981, who becomes disabled:~~

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

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

26 ~~(3)~~ A member's disability retirement benefit must be paid first to the member during the member's  
 27 lifetime and, upon the member's death, to the member's surviving spouse. If upon a member's death the  
 28 member leaves no surviving spouse or upon the death of the surviving spouse, the member's benefit must  
 29 be paid to the member's dependent children as long as they remain dependent children as defined in  
 30 19-13-104."

1           **Section 8.** Section 19-13-902, MCA, is amended to read:

2           "**19-13-902. Survivorship benefit.** (1) ~~(a)~~ Upon the death before retirement of an active member  
3 ~~hired before July 1, 1981,~~ the member's surviving spouse, if there is one, must receive a survivorship  
4 benefit equal to one-half the ~~last monthly~~ final average compensation received by the member. If the  
5 member leaves one or more dependent children, then, upon the member's death if the member leaves no  
6 surviving spouse or upon the death of the surviving spouse, the member's dependent children must  
7 collectively receive the same benefit that a surviving spouse would have received, as long as the children  
8 remain dependent children as defined in 19-13-104.

9           ~~(b)~~(2) If the deceased member completed over 20 years of membership service, the survivorship  
10 benefit ~~provided in subsection (1)(a) must be increased at a rate of 2%~~ must be equal to 2.5% of the ~~last~~  
11 ~~monthly~~ final average compensation for each year ~~in excess of 20 of service.~~

12           ~~(2) Upon the death before retirement of a member hired on or after July 1, 1981, the member's~~  
13 ~~surviving spouse, if there is one, must receive a survivorship benefit equal to one half of the member's final~~  
14 ~~average compensation. If the member leaves one or more dependent children, then, upon the member's~~  
15 ~~death if the member leaves no surviving spouse or upon the death of the surviving spouse, the member's~~  
16 ~~dependent children must collectively receive the same benefit that a surviving spouse would have received,~~  
17 ~~as long as the children remain dependent children as defined in 19-13-104."~~

18  
19           **Section 9.** Section 19-13-1007, MCA, is amended to read:

20           "**19-13-1007. Benefit adjustment.** (1) For a retired member ~~retiring on or after July 1, 1973, who~~  
21 ~~was hired before July 1, 1981,~~ or the member's surviving spouse or dependent children, the service  
22 retirement benefit provided in 19-13-704~~(1)(a)~~, the disability retirement benefit provided in 19-13-803~~(1)~~,  
23 and the survivorship benefit provided in 19-13-902~~(1)~~ may not be less than one-half the monthly  
24 compensation paid to a newly confirmed, active firefighter of a city that last employed the member as a  
25 firefighter, as provided each year in the budget of that city.

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

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

6           ~~(4)~~(3) If the employment of a vested member hired before July 1, 1981, is involuntarily  
 7 discontinued because of the termination of employment of all full-paid firefighters in the city that employed  
 8 the member, the member's service retirement benefit provided in 19-13-704(1)(b) and the member's  
 9 spouse's or dependent child's survivorship benefit provided in 19-13-902(1) may not be less than:

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

13           (b) if the member has earned more than 10 but less than 20 years of membership service, ~~2%~~  
 14 2.5% of the average monthly compensation paid to all newly confirmed, full-paid firefighters, as provided  
 15 each year in the budgets of those cities that participate in the retirement system and employ a full-paid  
 16 firefighter, for each year of the member's service."

17

18           **Section 10.** Section 19-18-606, MCA, is amended to read:

19           "**19-18-606. Supplement to certain pensions.** (1) In addition to the taxes on premiums required  
 20 by law to be paid by each insurer doing business in this state that is authorized to effect insurance on risks  
 21 enumerated in 19-18-512, there is a tax of 1 1/2% on the fire portion of the direct premiums received  
 22 during the calendar year of 1989 and each succeeding year, with allowance for cancellations and returned  
 23 premiums. The insurance commissioner shall collect the tax during March of each year and deposit the  
 24 moneys in the state special revenue fund. The proceeds of ~~such~~ the tax are statutorily appropriated, as  
 25 provided in 17-7-502, to the auditor, who shall pay claims as provided in subsection (2) ~~of this section and~~  
 26 ~~19-13-1006~~. If sufficient cash remains in the fund each year after the payment of claims as provided in  
 27 subsection (2) of this section ~~and 19-13-1006~~, the state auditor shall deposit any excess amount in the  
 28 ~~account provided for in 19-13-615~~ general fund.

29           (2) ~~Effective January 1, 1976, each~~ Each association shall pay to the firefighters retired before July  
 30 1, 1973, or their surviving spouses and children a monthly pension of not less than one-half the regular



1 monthly salary paid to a confirmed active firefighter of that city, as provided each year in the budget of that  
2 city. In the case of volunteer firefighters, the pension may not exceed \$75 per month. Distribution of the  
3 funds provided for this purpose under subsection (1) shall must be made as follows:

4 (a) At the beginning of each fiscal year the treasurer of each association shall request and the state  
5 auditor shall issue from the state special revenue fund and deliver to the treasurer of the respective city or  
6 town an amount certified to be equal to the total annual dollar difference between what the retirees or their  
7 surviving spouses and children received from the fund and one-half of the salary paid by the respective city  
8 or town to a confirmed active firefighter for the fiscal year just preceding. The state auditor shall, at the  
9 same time, report to the treasurer of the appropriate association the amount of any payment delivered to  
10 the board of investments.

11 (b) The treasurer of a city or town receiving funds shall immediately disburse them to the treasurer  
12 of the respective association.

13 (c) The treasurer of the association shall utilize these funds to increase the monthly pension of  
14 retirees or their surviving spouses and children to an amount equal to one-half of the salary that was paid  
15 to a confirmed active firefighter in the city or town for the preceding year."

16  
17 NEW SECTION. Section 11. Repealer. Sections 19-13-615, 19-13-1006, and 19-13-1009, MCA,  
18 are repealed.

19  
20 NEW SECTION. Section 12. Effective date. [This act] is effective July 1, 1997.

21 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0430, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

The bill increases service retirement benefits for certain members of the Firefighters' Unified Retirement System (FURS) to 2.5% of final average salary per year of service, reduces disability benefits, reduces vesting period to five years, increases employee and state (insurance premium tax fund) contributions to pay for the benefit increases, actuarially funds all supplemental benefits, and deposits certain insurance premium taxes to the general fund instead of the FURS trust fund.

ASSUMPTIONS:

1. The total actuarial cost of funding the benefit increase in FURS is additional contributions equal to 9.73% of total FURS payroll. This amount will be split between the insurance premium tax fund (8.03% of payroll) and active FURS members (1.7% of compensation).
2. The total FURS covered payroll for fiscal year 1996 was \$13,782,660. It is estimated that covered payrolls will increase by 5.3% per year.
3. A portion of the payments from the insurance premium tax fund will no longer be paid directly into the FURS pension trust fund but will be deposited to the state general fund.
4. Contribution increases to the FURS trust fund from the insurance premium tax fund directly reduce state general fund revenues by like amounts.

FISCAL IMPACT:

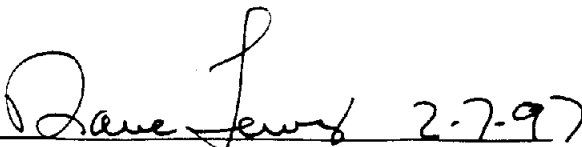
	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
Contributions to FURS trust fund:		
Insurance Premium Tax Fund (02)	69,232	76,376
<u>Revenues:</u>		
General fund (01) (from insurance premium tax)	(69,232)	(76,376)
<u>Net Impact on Fund Balance:</u> (Revenue minus expense)		
General fund (01)	(69,232)	(76,376)

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The contributions from the insurance premium tax fund and corresponding reduction in deposits to the general fund will increase at approximately 5.3% per year. Since increased retirement benefits will be taxable, there will be an increase in income tax revenues deposited to the general fund.

TECHNICAL NOTES:

This bill will need to be coordinated with other legislation impacting this retirement systems (for example: HB 170, HB 324, HB 173, and LC 939).

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

  
BRUCE SIMON, PRIMARY SPONSOR      DATE

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 2 INTRODUCED BY *Simon* *Nicole Burton* *Christa Bishop*  
 3 *Christa Bishop* *For Writing Board* *House* *Spencer Clark*

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 2 INTRODUCED BY *James* *Hester* *Crutcher* *Christie* *Bishop*  
*Christensen* *For* *Monthly* *Board* *Members* *James* *Clark*

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3 MCCARTHY, GRADY, GALVIN, SQUIRES, CLARK

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13 SECTIONS 19-13-104, 19-13-301, 19-13-601, 19-13-604, 19-13-701, 19-13-704, 19-13-803, 19-13-902,  
14 19-13-1007, AND 19-18-606, MCA; REPEALING SECTIONS 19-13-615, 19-13-1006, AND 19-13-1009,  
15 MCA; AND PROVIDING AN EFFECTIVE DATE."

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18  
19 **Section 1.** Section 19-13-104, MCA, is amended to read:

20 "**19-13-104. Definitions.** Unless the context requires otherwise, the following definitions apply  
21 in this chapter:

22 (1) Any reference to "city" or "town" includes those jurisdictions ~~which that, prior to~~ before the  
23 effective date of a county-municipal consolidation, were incorporated municipalities, subsequent districts  
24 created for urban firefighting services, or the entire county included in the county-municipal consolidation.

25 (2) "Compensation" means:

26 (a) for a full-paid firefighter, the regular remuneration, excluding overtime, holiday payments, shift  
27 differential payments, compensatory time payments, and payments in lieu of sick leave, paid by an  
28 employer for the firefighter's service as a firefighter;

29 (b) for a part-paid firefighter employed by a city of the second class:

30 (i) 15% of the regular remuneration, excluding overtime, holiday payments, shift differential

1 payments, compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year  
2 to a newly confirmed, full-paid firefighter of the city that employs the part-paid firefighter; or

3 (iii) if that city does not employ a full-paid firefighter, 15% of the average regular remuneration,  
4 excluding overtime, holiday payments, shift differential payments, compensatory time payments, and  
5 payments in lieu of sick leave, paid on July 1 of each year to all newly confirmed, full-paid firefighters  
6 employed by cities of the second class.

7 (3) "Dependent child" means a child of a deceased member who is:

8 (a) unmarried and under age 18; or

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

11 (4) "Employer" means any city that is of the first or second class or that elects to join this  
12 retirement system under 19-13-211.

13 (5) "Final average compensation" means the monthly compensation of a member ~~hired on or after~~  
14 ~~July 1, 1981~~, averaged over the last 36 months of the member's active service or, if the member has not  
15 been a member that long, over the period of the member's service. Lump-sum payments for annual leave  
16 paid to the member upon termination of service may be used to replace, on a month-for-month basis, the  
17 normal compensation for a month or months included in the calculation of final average compensation.

18 (6) "Firefighter" means a person employed as a full-paid or part-paid firefighter by an employer.

19 (7) "Full-paid firefighter" means a person appointed as a firefighter under 7-33-4106.

20 ~~(8) "Last monthly compensation" means the compensation paid to a member during the member's~~  
21 ~~last full month of service. Lump-sum payments for annual leave paid to the member upon termination of~~  
22 ~~service may not be included in the calculation of last monthly compensation.~~

23 ~~(9)~~(8) "Minimum retirement date" means the first day of the month coinciding with or immediately  
24 following, if none coincides, the date on which a member becomes both age 50 or older and completes 10  
25 or more years of membership service.

26 ~~(10)~~(9) "Part-paid firefighter" means a person employed under 7-33-4109 who receives  
27 compensation in excess of \$300 a year for service as a firefighter.

28 ~~(11)~~(10) "Prior plan" means the fire department relief association plan of a city that elects to join  
29 the retirement system under 19-13-211 or the fire department relief association plan of a city of the first  
30 or second class.

1           ~~(12)~~(11) "Retirement date" means the date on which the first payment of benefits is payable.

2           ~~(13)~~(12) "Surviving spouse" means the spouse married to a member at the time of the member's  
3 death."

4

5           **Section 2.** Section 19-13-301, MCA, is amended to read:

6           "**19-13-301. Active membership -- inactive vested member -- inactive nonvested member.** (1) A  
7 full-paid firefighter becomes an active member of the retirement system:

8           (a) on the first day of the firefighter's service with an employer;

9           (b) on July 1, 1981, if the firefighter is employed by an employer on that date; or

10           (c) in the case of an employer ~~that~~ who, elects to join the retirement system as provided in  
11 19-13-211, on the effective date of the election if the firefighter is employed by the employer on that date.

12           (2) Upon becoming eligible for membership, the firefighter shall complete the forms and furnish any  
13 proof required by the board.

14           (3) A part-paid firefighter may elect to become a member of the retirement system by filing a  
15 membership application with the board.

16           (4) An active member becomes an inactive member upon the occurrence of the earliest of the  
17 following:

18           (a) the date the member ceases service with an employer;

19           (b) the 31st day of an approved absence from active duty with an employer; or

20           (c) the date the member ceases to be employed because of a reduction of the number of  
21 firefighters in the fire department as provided in 7-33-4125.

22           (5) A member with at least ~~40~~ 5 years of membership service who terminates service and does not  
23 take a refund of accumulated contributions is an inactive vested member and retains the right to purchase  
24 service and to receive a retirement benefit under the provisions of this chapter.

25           (6) A member with less than ~~40~~ 5 years of membership service who terminates service and leaves  
26 the member's accumulated contributions in the pension trust fund is an inactive nonvested member and  
27 is not eligible for any benefits from the retirement system. An inactive nonvested member is eligible only  
28 for a refund of the member's accumulated contributions."

29

30           **Section 3.** Section 19-13-601, MCA, is amended to read:

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

7           (2) The member's contribution to the retirement system is ~~7.8%~~ 9.5% of the member's  
8 compensation.

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

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

17           (5) The member's contributions picked up by the employer must be designated for all purposes of  
18 the retirement system as the member's contributions, except for the determination of a tax upon a  
19 distribution from the retirement system. These contributions must become part of the member's  
20 accumulated contributions but must be accounted for separately from those previously accumulated.

21           (6) The member's contributions picked up by the employer must be payable from the same source  
22 as is used to pay compensation to the member and must be included in the member's compensation as  
23 defined in 19-13-104. The employer shall deduct from the member's compensation an amount equal to the  
24 amount of the member's contributions picked up by the employer and remit the total of the contributions  
25 to the board."

26  
27           **Section 4.** Section 19-13-604, MCA, is amended to read:

28           **"19-13-604. State contribution.** The state shall make its contributions through the state auditor  
29 from the premium taxes on the insurance risks enumerated in 19-18-512. These payments must be made  
30 annually to the pension trust fund after the end of each fiscal year but no later than November 1 from the



1 gross premium taxes after deduction for cancellations and returned premiums. The division shall notify the  
 2 auditor of the annual compensation, excluding overtime, holiday payments, shift differential payments,  
 3 compensatory time payments, and payments in lieu of sick leave, paid to all active members during the  
 4 preceding year. The state's contribution is ~~24.21%~~ 32.24% of this total compensation. As soon as  
 5 practicable after receipt of the state contribution, the division shall deposit it in the pension trust fund."

6

7 **Section 5.** Section 19-13-701, MCA, is amended to read:

8 **"19-13-701. Eligibility for service retirement -- commencement of benefit.** (1) A member who has  
 9 completed 20 years or more of membership service is eligible for service retirement commencing on the first  
 10 day of the month following the member's last day of service.

11 (2) A vested member who terminates service before the minimum retirement date and keeps the  
 12 member's accumulated contributions on deposit is eligible for service retirement commencing on the  
 13 member's minimum retirement date.

14 (3) A vested inactive member may file a written application with the board requesting that the  
 15 member's retirement benefit commence on the first day of the month following receipt of the application.  
 16 However, the retirement benefit for an inactive vested member must commence no ~~later~~ earlier than the  
 17 first day of the month following the member's ~~55th~~ 50th birthday."

18

19 **Section 6.** Section 19-13-704, MCA, is amended to read:

20 **"19-13-704. Amount of service retirement benefit.** (1) ~~(a) A member hired before July 1, 1981,~~  
 21 ~~who elects to retire after having reached 20 years of membership service must receive a service retirement~~  
 22 ~~benefit equal to the sum of:~~

23 ~~(i) 50% of the member's last monthly compensation for years of service credit up to and including~~  
 24 ~~20 years; and~~

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

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

1 ~~to receive the allowance as long as they remain dependent children as defined in 19-13-104.~~

2 ~~(2) A~~ Except as provided in subsection (2), a member hired on or after July 1, 1981, who retires  
3 with at least ~~10~~ 5 years of membership service must receive a service retirement benefit equal to ~~2%~~ 2.5%  
4 of the member's final average compensation for each year of service credit.

5 (2) (a) A member initially hired before July 1, 1981, who retires with less than 20 years of service  
6 must receive a service retirement benefit equal to 2% of the member's final monthly compensation for each  
7 year of service or the benefit provided under subsection (1) whichever is greater.

8 (b) A member initially hired before July 1, 1981, who retires with 20 years of service or more must  
9 receive a service retirement benefit equal to 50% of the member's final monthly compensation plus 2% of  
10 the member's final monthly compensation for each year of service over 20 years or the benefit provided  
11 in subsection (1) whichever is greater."

12

13 **Section 7.** Section 19-13-803, MCA, is amended to read:

14 **"19-13-803. Amount of disability retirement benefit.** (1) A member ~~hired before July 1, 1981,~~ who  
15 becomes disabled:

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

18 (b) after completing 20 years or more of membership service must receive ~~the~~ a disability  
19 retirement benefit ~~provided in subsection (1)(a) increased at a rate of 2%~~ equal to 2.5% of the member's  
20 last monthly final average compensation for each year of service credit ~~in excess of 20.~~

21 ~~(2) A member hired on or after July 1, 1981, who becomes disabled:~~

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

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

27 ~~(3) A member's disability retirement benefit must be paid first to the member during the member's~~  
28 ~~lifetime and, upon the member's death, to the member's surviving spouse. If upon a member's death the~~  
29 ~~member leaves no surviving spouse or upon the death of the surviving spouse, the member's benefit must~~  
30 ~~be paid to the member's dependent children as long as they remain dependent children as defined in~~

1 19-13-104."

2

3 **Section 8.** Section 19-13-902, MCA, is amended to read:

4 "19-13-902. **Survivorship benefit.** (1) ~~{a}~~ Upon the death before retirement of an active member  
5 ~~hired before July 1, 1981~~, the member's surviving spouse, if there is one, must receive a survivorship  
6 benefit equal to one-half the ~~last monthly~~ final average compensation received by the member. If the  
7 member leaves one or more dependent children, then, upon the member's death if the member leaves no  
8 surviving spouse or upon the death of the surviving spouse, the member's dependent children must  
9 collectively receive the same benefit that a surviving spouse would have received, as long as the children  
10 remain dependent children as defined in 19-13-104.

11 ~~{b}~~ (2) If the deceased member completed over 20 years of membership service, the survivorship  
12 benefit ~~provided in subsection (1)(a) must be increased at a rate of 2%~~ must be equal to 2.5% of the ~~last~~  
13 monthly final average compensation for each year ~~in excess of 20 of service~~.

14 ~~(2) Upon the death before retirement of a member hired on or after July 1, 1981, the member's~~  
15 ~~surviving spouse, if there is one, must receive a survivorship benefit equal to one-half of the member's final~~  
16 ~~average compensation. If the member leaves one or more dependent children, then, upon the member's~~  
17 ~~death if the member leaves no surviving spouse or upon the death of the surviving spouse, the member's~~  
18 ~~dependent children must collectively receive the same benefit that a surviving spouse would have received,~~  
19 ~~as long as the children remain dependent children as defined in 19-13-104."~~

20

21 **Section 9.** Section 19-13-1007, MCA, is amended to read:

22 "19-13-1007. **Benefit adjustment.** (1) For a retired member ~~retiring on or after July 1, 1973, who~~  
23 ~~was hired before July 1, 1981~~, or the member's surviving spouse or dependent children, the service  
24 retirement benefit provided in 19-13-704~~(1)(a)~~, the disability retirement benefit provided in 19-13-803~~(1)~~,  
25 and the survivorship benefit provided in 19-13-902~~(1)~~ may not be less than one-half the monthly  
26 compensation paid to a newly confirmed, active firefighter of a city that last employed the member as a  
27 firefighter, as provided each year in the budget of that city.

28 ~~(2) For a member hired on or after July 1, 1981, or the member's surviving spouse or dependent~~  
29 ~~children, the disability retirement benefit provided in 19-13-803(2) and the survivorship benefit provided~~  
30 ~~in 19-13-902(2) may not be less than one-half the monthly compensation paid to a newly confirmed, active~~

1 ~~firefighter of a city that last employed the member as a firefighter, as provided each year in the budget of~~  
 2 ~~that city.~~

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

8 ~~(4)~~(3) If the employment of a vested member hired before July 1, 1981, is involuntarily  
 9 discontinued because of the termination of employment of all full-paid firefighters in the city that employed  
 10 the member, the member's service retirement benefit provided in 19-13-704~~(1)(b)~~ and the member's  
 11 spouse's or dependent child's survivorship benefit provided in 19-13-902(1) may not be less than:

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

15 (b) if the member has earned more than 10 but less than 20 years of membership service, ~~2%~~  
 16 2.5% of the average monthly compensation paid to all newly confirmed, full-paid firefighters, as provided  
 17 each year in the budgets of those cities that participate in the retirement system and employ a full-paid  
 18 firefighter, for each year of the member's service."

19

20 **Section 10.** Section 19-18-606, MCA, is amended to read:

21 **"19-18-606. Supplement to certain pensions.** (1) In addition to the taxes on premiums required  
 22 by law to be paid by each insurer doing business in this state that is authorized to effect insurance on risks  
 23 enumerated in 19-18-512, there is a tax of 1 1/2% on the fire portion of the direct premiums received  
 24 during the calendar year of 1989 and each succeeding year, with allowance for cancellations and returned  
 25 premiums. The insurance commissioner shall collect the tax during March of each year and deposit the  
 26 moneys in the state special revenue fund. The proceeds of ~~such~~ the tax are statutorily appropriated, as  
 27 provided in 17-7-502, to the auditor, who shall pay claims as provided in subsection (2) ~~of this section and~~  
 28 ~~19-13-1006~~. If sufficient cash remains in the fund each year after the payment of claims as provided in  
 29 subsection (2) of this section ~~and 19-13-1006~~, the state auditor shall deposit any excess amount in the  
 30 ~~account provided for in 19-13-615~~ general fund.

1           (2) ~~Effective January 1, 1976, each~~ Each association shall pay to the firefighters retired before July  
 2 1, 1973, or their surviving spouses and children a monthly pension of not less than one-half the regular  
 3 monthly salary paid to a confirmed active firefighter of that city, as provided each year in the budget of that  
 4 city. In the case of volunteer firefighters, the pension may not exceed \$75 per month. Distribution of the  
 5 funds provided for this purpose under subsection (1) ~~shall~~ must be made as follows:

6           (a) At the beginning of each fiscal year the treasurer of each association shall request and the state  
 7 auditor shall issue from the state special revenue fund and deliver to the treasurer of the respective city or  
 8 town an amount certified to be equal to the total annual dollar difference between what the retirees or their  
 9 surviving spouses and children received from the fund and one-half of the salary paid by the respective city  
 10 or town to a confirmed active firefighter for the fiscal year just preceding. The state auditor shall, at the  
 11 same time, report to the treasurer of the appropriate association the amount of any payment delivered to  
 12 the board of investments.

13           (b) The treasurer of a city or town receiving funds shall immediately disburse them to the treasurer  
 14 of the respective association.

15           (c) The treasurer of the association shall utilize these funds to increase the monthly pension of  
 16 retirees or their surviving spouses and children to an amount equal to one-half of the salary that was paid  
 17 to a confirmed active firefighter in the city or town for the preceding year."  
 18

19           NEW SECTION. Section 11. Repealer. Sections 19-13-615, 19-13-1006, and 19-13-1009, MCA,  
 20 are repealed.

21  
 22           NEW SECTION. SECTION 12. COORDINATION INSTRUCTIONS. (1) IF HOUSE BILL NO. 170 IS  
 23 PASSED AND APPROVED AND IF IT AMENDS 19-13-601, AND IF [THIS ACT] IS PASSED AND APPROVED  
 24 AND IF IT AMENDS 19-13-601, THEN [SECTION 29 OF HOUSE BILL NO. 170], AMENDING 19-13-601,  
 25 IS VOID AND [SECTION 3 OF THIS ACT], AMENDING 19-13-601, SHALL READ:

26           "Section 3. Section 19-13-601, MCA, is amended to read:

27           "**19-13-601. Deduction remitted to firemen's association -- member's contribution.** (1) Each  
 28 employer shall retain from the compensation of each active member a sum equal to 1% of the member's  
 29 compensation for services as a firefighter and shall remit this amount on a monthly basis to the Montana  
 30 state firemen's association for the payment of premiums on a group life and accidental death and

1 dismemberment insurance policy for members and to defray expenses incurred by the association when  
2 representing members of the retirement system.

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

5 (a) 9.5% for a member not covered under [section 3 of House Bill No. 170]; or

6 (b) 10.7% for a member covered under [section 3 of House Bill No. 170].

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

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

15 (5) The member's contributions picked up by the employer must be designated for all purposes of  
16 the retirement system as the member's contributions, except for the determination of a tax upon a  
17 distribution from the retirement system. These contributions must become part of the member's  
18 accumulated contributions but must be accounted for separately from those previously accumulated.

19 (6) The member's contributions picked up by the employer must be payable from the same source  
20 as is used to pay compensation to the member and must be included in the member's compensation as  
21 defined in 19-13-104. The employer shall deduct from the member's compensation an amount equal to the  
22 amount of the member's contributions picked up by the employer and remit the total of the contributions  
23 to the board."

24 (2) IF HOUSE BILL NO. 170 IS PASSED AND APPROVED AND IF IT AMENDS 19-13-704, AND IF  
25 [THIS ACT] IS PASSED AND APPROVED AND IF IT AMENDS 19-13-704, THEN [SECTION 31 OF HOUSE  
26 BILL NO. 170], AMENDING 19-13-704, IS VOID AND [SECTION 6 OF THIS ACT], AMENDING 19-13-704,  
27 SHALL READ:

28 "Section 6. Section 19-13-704, MCA, is amended to read:

29 "19-13-704. Amount of service retirement benefit. (1) Except as provided in subsection (2), a  
30 member

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

3 ~~(i) 50% of the member's last monthly compensation for years of service credit up to and including~~  
 4 ~~20 years; and~~

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

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

12 ~~(2) A member hired on or after July 1, 1981, who retires with at least 10 5 years of membership~~  
 13 ~~service must receive a service retirement benefit equal to ~~2%~~ 2.5% of the member's final average~~  
 14 ~~compensation for each year of service credit.~~

15 (2) A member hired before July 1, 1981, who does not elect to be covered under [section 3 of  
 16 House Bill No. 170] is entitled to the greater of:

17 (a) the benefit provided under subsection (1); or

18 (b) (i) if the member retires with less than 20 years of service, a benefit equal to 2% of the  
 19 member's final monthly compensation for each year of service; or

20 (ii) if the member retires with 20 or more years of service, a benefit equal to 50% of the member's  
 21 final monthly compensation plus 2% of the member's final monthly compensation for each year of service  
 22 over 20 years.

23 (3) Upon a retired member's death, the benefit must be made to the surviving spouse. If there is  
 24 no surviving spouse or if the surviving spouse dies and if the member leaves one or more dependent  
 25 children, the children are entitled to receive the allowance as long as they remain dependent children as  
 26 defined in 19-13-104."

27 (3) IF HOUSE BILL NO. 170 IS PASSED AND APPROVED AND IF IT AMENDS 19-13-803, AND IF  
 28 [THIS ACT] IS PASSED AND APPROVED AND IF IT AMENDS 19-13-803, THEN [SECTION 32 OF HOUSE  
 29 BILL NO. 170], AMENDING 19-13-803, IS VOID.

30 (4) IF HOUSE BILL NO. 170 IS PASSED AND APPROVED AND IF IT AMENDS 19-13-902, AND IF

1 [THIS ACT] IS PASSED AND APPROVED AND IF IT AMENDS 19-13-902, THEN [SECTION 33 OF HOUSE  
2 BILL NO. 170], AMENDING 19-13-902, IS VOID.

3

4 NEW SECTION. Section 13. Effective date. [This act] is effective July 1, 1997.

5

-END-



## 1 HOUSE BILL NO. 430

2 INTRODUCED BY SIMON, HERTEL, BARTLETT, ESTRADA, BISHOP, CHRISTIAENS, SIMPKINS,  
3 MCCARTHY, GRADY, GALVIN, SQUIRES, CLARK

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE SERVICE RETIREMENT BENEFIT FOR CERTAIN  
6 MEMBERS OF THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM TO 2.5 PERCENT OF FINAL AVERAGE  
7 COMPENSATION FOR EACH YEAR OF SERVICE; USING FINAL AVERAGE COMPENSATION IN THE  
8 CALCULATION OF DISABILITY BENEFITS INSTEAD OF FINAL MONTHLY COMPENSATION; RAISING  
9 CONTRIBUTIONS; INCREASING GENERAL FUND REVENUES BY PROVIDING THAT EXCESS INSURANCE  
10 PREMIUM TAXES BE DEPOSITED TO THE STATE GENERAL FUND; PROVIDING AN ACTUARIAL FUNDING  
11 MECHANISM TO PAY MINIMUM BENEFIT INCREASES; REDUCING THE NUMBER OF YEARS REQUIRED  
12 FOR VESTING; CLARIFYING THE DATE ON WHICH RETIREMENT BENEFITS MAY COMMENCE; AMENDING  
13 SECTIONS 19-13-104, 19-13-301, 19-13-601, 19-13-604, 19-13-701, 19-13-704, 19-13-803, 19-13-902,  
14 19-13-1007, AND 19-18-606, MCA; REPEALING SECTIONS 19-13-615, 19-13-1006, AND 19-13-1009,  
15 MCA; AND PROVIDING AN EFFECTIVE DATE."

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18  
19 **Section 1.** Section 19-13-104, MCA, is amended to read:

20 **"19-13-104. Definitions.** Unless the context requires otherwise, the following definitions apply  
21 in this chapter:

22 (1) Any reference to "city" or "town" includes those jurisdictions ~~which that, prior to before~~ the  
23 effective date of a county-municipal consolidation, were incorporated municipalities, subsequent districts  
24 created for urban firefighting services, or the entire county included in the county-municipal consolidation.

25 (2) "Compensation" means:

26 (a) for a full-paid firefighter, the regular remuneration, excluding overtime, holiday payments, shift  
27 differential payments, compensatory time payments, and payments in lieu of sick leave, paid by an  
28 employer for the firefighter's service as a firefighter;

29 (b) for a part-paid firefighter employed by a city of the second class:

30 (i) 15% of the regular remuneration, excluding overtime, holiday payments, shift differential

1 payments, compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year  
 2 to a newly confirmed, full-paid firefighter of the city that employs the part-paid firefighter; or

3 (ii) if that city does not employ a full-paid firefighter, 15% of the average regular remuneration,  
 4 excluding overtime, holiday payments, shift differential payments, compensatory time payments, and  
 5 payments in lieu of sick leave, paid on July 1 of each year to all newly confirmed, full-paid firefighters  
 6 employed by cities of the second class.

7 (3) "Dependent child" means a child of a deceased member who is:

8 (a) unmarried and under age 18; or

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

11 (4) "Employer" means any city that is of the first or second class or that elects to join this  
 12 retirement system under 19-13-211.

13 (5) "Final average compensation" means the monthly compensation of a member ~~hired on or after~~  
 14 ~~July 1, 1981~~, averaged over the last 36 months of the member's active service or, if the member has not  
 15 been a member that long, over the period of the member's service. Lump-sum payments for annual leave  
 16 paid to the member upon termination of service may be used to replace, on a month-for-month basis, the  
 17 normal compensation for a month or months included in the calculation of final average compensation.

18 (6) "Firefighter" means a person employed as a full-paid or part-paid firefighter by an employer.

19 (7) "Full-paid firefighter" means a person appointed as a firefighter under 7-33-4106.

20 ~~(8) "Last monthly compensation" means the compensation paid to a member during the member's~~  
 21 ~~last full month of service. Lump-sum payments for annual leave paid to the member upon termination of~~  
 22 ~~service may not be included in the calculation of last monthly compensation.~~

23 ~~(9)~~(8) "Minimum retirement date" means the first day of the month coinciding with or immediately  
 24 following, if none coincides, the date on which a member becomes both age 50 or older and completes 10  
 25 or more years of membership service.

26 ~~(10)~~(9) "Part-paid firefighter" means a person employed under 7-33-4109 who receives  
 27 compensation in excess of \$300 a year for service as a firefighter.

28 ~~(11)~~(10) "Prior plan" means the fire department relief association plan of a city that elects to join  
 29 the retirement system under 19-13-211 or the fire department relief association plan of a city of the first  
 30 or second class.

1           ~~(12)~~(11) "Retirement date" means the date on which the first payment of benefits is payable.

2           ~~(13)~~(12) "Surviving spouse" means the spouse married to a member at the time of the member's  
3 death."

4

5           **Section 2.** Section 19-13-301, MCA, is amended to read:

6           "**19-13-301. Active membership -- inactive vested member -- inactive nonvested member.** (1) A  
7 full-paid firefighter becomes an active member of the retirement system:

8           (a) on the first day of the firefighter's service with an employer;

9           (b) on July 1, 1981, if the firefighter is employed by an employer on that date; or

10           (c) in the case of an employer ~~that~~ who, elects to join the retirement system as provided in  
11 19-13-211, on the effective date of the election if the firefighter is employed by the employer on that date.

12           (2) Upon becoming eligible for membership, the firefighter shall complete the forms and furnish any  
13 proof required by the board.

14           (3) A part-paid firefighter may elect to become a member of the retirement system by filing a  
15 membership application with the board.

16           (4) An active member becomes an inactive member upon the occurrence of the earliest of the  
17 following:

18           (a) the date the member ceases service with an employer;

19           (b) the 31st day of an approved absence from active duty with an employer; or

20           (c) the date the member ceases to be employed because of a reduction of the number of  
21 firefighters in the fire department as provided in 7-33-4125.

22           (5) A member with at least ~~40~~ 5 years of membership service who terminates service and does not  
23 take a refund of accumulated contributions is an inactive vested member and retains the right to purchase  
24 service and to receive a retirement benefit under the provisions of this chapter.

25           (6) A member with less than ~~40~~ 5 years of membership service who terminates service and leaves  
26 the member's accumulated contributions in the pension trust fund is an inactive nonvested member and  
27 is not eligible for any benefits from the retirement system. An inactive nonvested member is eligible only  
28 for a refund of the member's accumulated contributions."

29

30           **Section 3.** Section 19-13-601, MCA, is amended to read:

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

7           (2) The member's contribution to the retirement system is ~~7.8%~~ 9.5% of the member's  
8 compensation.

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

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

17           (5) The member's contributions picked up by the employer must be designated for all purposes of  
18 the retirement system as the member's contributions, except for the determination of a tax upon a  
19 distribution from the retirement system. These contributions must become part of the member's  
20 accumulated contributions but must be accounted for separately from those previously accumulated.

21           (6) The member's contributions picked up by the employer must be payable from the same source  
22 as is used to pay compensation to the member and must be included in the member's compensation as  
23 defined in 19-13-104. The employer shall deduct from the member's compensation an amount equal to the  
24 amount of the member's contributions picked up by the employer and remit the total of the contributions  
25 to the board."

26

27           **Section 4.** Section 19-13-604, MCA, is amended to read:

28           **"19-13-604. State contribution.** The state shall make its contributions through the state auditor  
29 from the premium taxes on the insurance risks enumerated in 19-18-512. These payments must be made  
30 annually to the pension trust fund after the end of each fiscal year but no later than November 1 from the

1 gross premium taxes after deduction for cancellations and returned premiums. The division shall notify the  
 2 auditor of the annual compensation, excluding overtime, holiday payments, shift differential payments,  
 3 compensatory time payments, and payments in lieu of sick leave, paid to all active members during the  
 4 preceding year. The state's contribution is ~~24.21%~~ 32.24% of this total compensation. As soon as  
 5 practicable after receipt of the state contribution, the division shall deposit it in the pension trust fund."  
 6

7 **Section 5.** Section 19-13-701, MCA, is amended to read:

8 **"19-13-701. Eligibility for service retirement -- commencement of benefit.** (1) A member who has  
 9 completed 20 years or more of membership service is eligible for service retirement commencing on the first  
 10 day of the month following the member's last day of service.

11 (2) A vested member who terminates service before the minimum retirement date and keeps the  
 12 member's accumulated contributions on deposit is eligible for service retirement commencing on the  
 13 member's minimum retirement date.

14 (3) A vested inactive member may file a written application with the board requesting that the  
 15 member's retirement benefit commence on the first day of the month following receipt of the application.  
 16 However, the retirement benefit for an inactive vested member must commence no ~~later~~ earlier than the  
 17 first day of the month following the member's ~~55th~~ 50th birthday."  
 18

19 **Section 6.** Section 19-13-704, MCA, is amended to read:

20 **"19-13-704. Amount of service retirement benefit.** (1) ~~(a) A member hired before July 1, 1981,~~  
 21 ~~who elects to retire after having reached 20 years of membership service must receive a service retirement~~  
 22 ~~benefit equal to the sum of:~~

23 ~~(i) 50% of the member's last monthly compensation for years of service credit up to and including~~  
 24 ~~20 years; and~~

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

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

1 ~~to receive the allowance as long as they remain dependent children as defined in 19-13-104.~~

2 ~~(2) A~~ Except as provided in subsection (2), a member hired on or after July 1, 1981, who retires  
 3 with at least 40 5 years of membership service must receive a service retirement benefit equal to 2% 2.5%  
 4 of the member's final average compensation for each year of service credit.

5 (2) (a) A member initially hired before July 1, 1981, who retires with less than 20 years of service  
 6 must receive a service retirement benefit equal to 2% of the member's final monthly compensation for each  
 7 year of service or the benefit provided under subsection (1) whichever is greater.

8 (b) A member initially hired before July 1, 1981, who retires with 20 years of service or more must  
 9 receive a service retirement benefit equal to 50% of the member's final monthly compensation plus 2% of  
 10 the member's final monthly compensation for each year of service over 20 years or the benefit provided  
 11 in subsection (1) whichever is greater."

12

13 **Section 7.** Section 19-13-803, MCA, is amended to read:

14 **"19-13-803. Amount of disability retirement benefit.** (1) ~~A member hired before July 1, 1981, who~~  
 15 ~~becomes disabled:~~

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

18 (b) ~~after completing 20 years or more of membership service must receive the a disability~~  
 19 ~~retirement benefit provided in subsection (1)(a) increased at a rate of 2% equal to 2.5%~~ of the member's  
 20 ~~last monthly final average compensation for each year of service credit in excess of 20.~~

21 ~~(2) A member hired on or after July 1, 1981, who becomes disabled:~~

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

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

27 ~~(3) A member's disability retirement benefit must be paid first to the member during the member's~~  
 28 ~~lifetime and, upon the member's death, to the member's surviving spouse. If upon a member's death the~~  
 29 ~~member leaves no surviving spouse or upon the death of the surviving spouse, the member's benefit must~~  
 30 ~~be paid to the member's dependent children as long as they remain dependent children as defined in~~

1 19-13-104."

2

3 **Section 8.** Section 19-13-902, MCA, is amended to read:

4 "19-13-902. **Survivorship benefit.** (1) ~~(a)~~ Upon the death before retirement of an active member  
5 ~~hired before July 1, 1981~~, the member's surviving spouse, if there is one, must receive a survivorship  
6 benefit equal to one-half the ~~last monthly~~ final average compensation received by the member. If the  
7 member leaves one or more dependent children, then, upon the member's death if the member leaves no  
8 surviving spouse or upon the death of the surviving spouse, the member's dependent children must  
9 collectively receive the same benefit that a surviving spouse would have received, as long as the children  
10 remain dependent children as defined in 19-13-104.

11 ~~(b)(2)~~ If the deceased member completed over 20 years of membership service, the survivorship  
12 benefit ~~provided in subsection (1)(a) must be increased at a rate of 2%~~ must be equal to 2.5% of the last  
13 monthly final average compensation for each year ~~in excess of 20 of service~~.

14 ~~(2) Upon the death before retirement of a member hired on or after July 1, 1981, the member's~~  
15 ~~surviving spouse, if there is one, must receive a survivorship benefit equal to one-half of the member's final~~  
16 ~~average compensation. If the member leaves one or more dependent children, then, upon the member's~~  
17 ~~death if the member leaves no surviving spouse or upon the death of the surviving spouse, the member's~~  
18 ~~dependent children must collectively receive the same benefit that a surviving spouse would have received,~~  
19 ~~as long as the children remain dependent children as defined in 19-13-104."~~

20

21 **Section 9.** Section 19-13-1007, MCA, is amended to read:

22 "19-13-1007. **Benefit adjustment.** (1) For a retired member ~~retiring on or after July 1, 1973, who~~  
23 ~~was hired before July 1, 1981~~, or the member's surviving spouse or dependent children, the service  
24 retirement benefit provided in 19-13-704~~(1)(a)~~, the disability retirement benefit provided in 19-13-803~~(1)~~,  
25 and the survivorship benefit provided in 19-13-902~~(1)~~ may not be less than one-half the monthly  
26 compensation paid to a newly confirmed, active firefighter of a city that last employed the member as a  
27 firefighter, as provided each year in the budget of that city.

28 ~~(2) For a member hired on or after July 1, 1981, or the member's surviving spouse or dependent~~  
29 ~~children, the disability retirement benefit provided in 19-13-803(2) and the survivorship benefit provided~~  
30 ~~in 19-13-902(2) may not be less than one-half the monthly compensation paid to a newly confirmed, active~~

1 ~~firefighter of a city that last employed the member as a firefighter, as provided each year in the budget of~~  
 2 ~~that city.~~

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

8 ~~(4)~~(3) If the employment of a vested member hired before July 1, 1981, is involuntarily  
 9 discontinued because of the termination of employment of all full-paid firefighters in the city that employed  
 10 the member, the member's service retirement benefit provided in ~~19-13-704(1)(b)~~ and the member's  
 11 spouse's or dependent child's survivorship benefit provided in 19-13-902(1) may not be less than:

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

15 (b) if the member has earned more than 10 but less than 20 years of membership service, ~~2%~~  
 16 2.5% of the average monthly compensation paid to all newly confirmed, full-paid firefighters, as provided  
 17 each year in the budgets of those cities that participate in the retirement system and employ a full-paid  
 18 firefighter, for each year of the member's service."  
 19

20 **Section 10.** Section 19-18-606, MCA, is amended to read:

21 **"19-18-606. Supplement to certain pensions.** (1) In addition to the taxes on premiums required  
 22 by law to be paid by each insurer doing business in this state that is authorized to effect insurance on risks  
 23 enumerated in 19-18-512, there is a tax of 1 1/2% on the fire portion of the direct premiums received  
 24 during the calendar year of 1989 and each succeeding year, with allowance for cancellations and returned  
 25 premiums. The insurance commissioner shall collect the tax during March of each year and deposit the  
 26 moneys in the state special revenue fund. The proceeds of ~~such~~ the tax are statutorily appropriated, as  
 27 provided in 17-7-502, to the auditor, who shall pay claims as provided in subsection (2) ~~of this section and~~  
 28 ~~19-13-1006~~. If sufficient cash remains in the fund each year after the payment of claims as provided in  
 29 subsection (2) of this section ~~and 19-13-1006~~, the state auditor shall deposit any excess amount in the  
 30 ~~account provided for in 19-13-615~~ general fund.



1           (2) ~~Effective January 1, 1976, each~~ Each association shall pay to the firefighters retired before July  
 2 1, 1973, or their surviving spouses and children a monthly pension of not less than one-half the regular  
 3 monthly salary paid to a confirmed active firefighter of that city, as provided each year in the budget of that  
 4 city. In the case of volunteer firefighters, the pension may not exceed \$75 per month. Distribution of the  
 5 funds provided for this purpose under subsection (1) ~~shall~~ must be made as follows:

6           (a) At the beginning of each fiscal year the treasurer of each association shall request and the state  
 7 auditor shall issue from the state special revenue fund and deliver to the treasurer of the respective city or  
 8 town an amount certified to be equal to the total annual dollar difference between what the retirees or their  
 9 surviving spouses and children received from the fund and one-half of the salary paid by the respective city  
 10 or town to a confirmed active firefighter for the fiscal year just preceding. The state auditor shall, at the  
 11 same time, report to the treasurer of the appropriate association the amount of any payment delivered to  
 12 the board of investments.

13           (b) The treasurer of a city or town receiving funds shall immediately disburse them to the treasurer  
 14 of the respective association.

15           (c) The treasurer of the association shall utilize these funds to increase the monthly pension of  
 16 retirees or their surviving spouses and children to an amount equal to one-half of the salary that was paid  
 17 to a confirmed active firefighter in the city or town for the preceding year."

18  
 19           NEW SECTION. Section 11. Repealer. Sections 19-13-615, 19-13-1006, and 19-13-1009, MCA,  
 20 are repealed.

21  
 22           NEW SECTION. SECTION 12. COORDINATION INSTRUCTIONS. (1) IF HOUSE BILL NO. 170 IS  
 23 PASSED AND APPROVED AND IF IT AMENDS 19-13-601, AND IF [THIS ACT] IS PASSED AND APPROVED  
 24 AND IF IT AMENDS 19-13-601, THEN [SECTION 29 OF HOUSE BILL NO. 170], AMENDING 19-13-601,  
 25 IS VOID AND [SECTION 3 OF THIS ACT], AMENDING 19-13-601, SHALL READ:

26           "Section 3. Section 19-13-601, MCA, is amended to read:

27           "19-13-601. **Deduction remitted to firemen's association -- member's contribution.** (1) Each  
 28 employer shall retain from the compensation of each active member a sum equal to 1% of the member's  
 29 compensation for services as a firefighter and shall remit this amount on a monthly basis to the Montana  
 30 state firemen's association for the payment of premiums on a group life and accidental death and

1 dismemberment insurance policy for members and to defray expenses incurred by the association when  
2 representing members of the retirement system.

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

5 (a) 9.5% for a member not covered under [section 3 of House Bill No. 170]; or

6 (b) 10.7% for a member covered under [section 3 of House Bill No. 170].

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

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

15 (5) The member's contributions picked up by the employer must be designated for all purposes of  
16 the retirement system as the member's contributions, except for the determination of a tax upon a  
17 distribution from the retirement system. These contributions must become part of the member's  
18 accumulated contributions but must be accounted for separately from those previously accumulated.

19 (6) The member's contributions picked up by the employer must be payable from the same source  
20 as is used to pay compensation to the member and must be included in the member's compensation as  
21 defined in 19-13-104. The employer shall deduct from the member's compensation an amount equal to the  
22 amount of the member's contributions picked up by the employer and remit the total of the contributions  
23 to the board."

24 (2) IF HOUSE BILL NO. 170 IS PASSED AND APPROVED AND IF IT AMENDS 19-13-704, AND IF  
25 [THIS ACT] IS PASSED AND APPROVED AND IF IT AMENDS 19-13-704, THEN [SECTION 31 OF HOUSE  
26 BILL NO. 170], AMENDING 19-13-704, IS VOID AND [SECTION 6 OF THIS ACT], AMENDING 19-13-704,  
27 SHALL READ:

28 "Section 6. Section 19-13-704, MCA, is amended to read:

29 "19-13-704. **Amount of service retirement benefit.** (1) Except as provided in subsection (2), a  
30 member

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

3 ~~(i) 50% of the member's last monthly compensation for years of service credit up to and including~~  
 4 ~~20 years; and~~

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

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

12 ~~(2) A member hired on or after July 1, 1981, who retires with at least 10 5 years of membership~~  
 13 ~~service must receive a service retirement benefit equal to 2% 2.5% of the member's final average~~  
 14 ~~compensation for each year of service credit.~~

15 (2) A member hired before July 1, 1981, who does not elect to be covered under [section 3 of  
 16 House Bill No. 170] is entitled to the greater of:

17 (a) the benefit provided under subsection (1); or

18 (b) (i) if the member retires with less than 20 years of service, a benefit equal to 2% of the  
 19 member's final monthly compensation for each year of service; or

20 (ii) if the member retires with 20 or more years of service, a benefit equal to 50% of the member's  
 21 final monthly compensation plus 2% of the member's final monthly compensation for each year of service  
 22 over 20 years.

23 (3) Upon a retired member's death, the benefit must be made to the surviving spouse. If there is  
 24 no surviving spouse or if the surviving spouse dies and if the member leaves one or more dependent  
 25 children, the children are entitled to receive the allowance as long as they remain dependent children as  
 26 defined in 19-13-104."

27 (3) IF HOUSE BILL NO. 170 IS PASSED AND APPROVED AND IF IT AMENDS 19-13-803, AND IF  
 28 [THIS ACT] IS PASSED AND APPROVED AND IF IT AMENDS 19-13-803, THEN [SECTION 32 OF HOUSE  
 29 BILL NO. 170], AMENDING 19-13-803, IS VOID.

30 (4) IF HOUSE BILL NO. 170 IS PASSED AND APPROVED AND IF IT AMENDS 19-13-902, AND IF

1 [THIS ACT] IS PASSED AND APPROVED AND IF IT AMENDS 19-13-902, THEN [SECTION 33 OF HOUSE  
2 BILL NO. 170], AMENDING 19-13-902, IS VOID.

3

4 NEW SECTION. Section 13. Effective date. [This act] is effective July 1, 1997.

5

-END-