

SENATE BILL NO. 124

INTRODUCED BY CHRISTIAENS

BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS ADMINISTERED BY THE PUBLIC EMPLOYEES' RETIREMENT BOARD; PROVIDING THAT FEDERAL TAX LAWS GOVERNING QUALIFICATION OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEMS SUPERSEDE CONFLICTING STATE STATUTES; GIVING THE BOARD RULEMAKING AUTHORITY; DEFINING "STATUTORY BENEFICIARY" AND "TERMINATION OF EMPLOYMENT" OR "TERMINATION OF SERVICE"; ALLOWING MEMBERS OF THE GAME WARDENS' RETIREMENT SYSTEM TO QUALIFY PERIODS OF ABSENCE FROM COVERED EMPLOYMENT BECAUSE OF SERVICE-CONNECTED INJURY OR ILLNESS; CLARIFYING CERTAIN SERVICE CREDIT PROVISIONS; ALLOWING MAILINGS FOR CERTAIN NONPROFIT ORGANIZATIONS; CLARIFYING CERTAIN DEFINITIONS; PROVIDING THAT FAMILY LAW ORDERS MAY NOT BE ENTERED UNLESS CERTAIN PROVISIONS ARE APPROVED BY THE BOARD; REVISING CERTAIN OPTIONAL MEMBERSHIP PROVISIONS; REVISING PROVISIONS RELATED TO THE TRANSFER OF SERVICE FROM THE TEACHERS' RETIREMENT SYSTEM; CLARIFYING BENEFIT COMMENCEMENT DATES FOR ALL SYSTEMS; ALLOWING CANCELLATION OF DISABILITY BENEFITS AND AN EXCEPTION TO REINSTATEMENT PROVISIONS; REVISING CERTAIN PROVISIONS RELATED TO BENEFICIARY DESIGNATION AND SURVIVOR BENEFIT OPTIONS; AMENDING SECTIONS 2-6-109, 19-2-303, 19-2-701, 19-2-702, 19-2-704, 19-2-801, 19-2-802, 19-2-907, 19-3-401, 19-3-412, 19-3-504, 19-3-511, 19-3-513, 19-3-1015, 19-3-1104, 19-3-1601, 19-5-103, 19-5-601, 19-5-801, 19-6-501, 19-6-612, 19-7-501, 19-7-612, 19-7-708, 19-8-601, 19-8-712, 19-8-1101, 19-9-801, 19-9-904, 19-9-905, 19-13-701, 19-13-804, 19-13-805, AND 19-17-102, MCA; REPEALING SECTIONS 19-3-903 AND 19-3-1006, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [sections 1 and 3] give the public employees' retirement board authority to adopt administrative rules.

A fundamental purpose of the public employee retirement systems is to provide members with a federal income tax-deferred retirement plan. To qualify for federally deferred income tax status, each



1 retirement plan must conform with the requirements of section 401 of the Internal Revenue Code, which
2 may be amended from time to time.

3 It is the intent of the legislature that Montana statutory provisions in conflict with section 401 of
4 the Internal Revenue Code and related federal regulations and that would result in a retirement plan being
5 disqualified are ineffective or must be interpreted so that the retirement plans may retain tax-deferred
6 status.

7 It is the further intent of the legislature to clarify when a member of a retirement system becomes
8 a retiree. The retirement date is the date on which the member accepts the first benefit payment. An
9 inactive member who has not met all eligibility requirements for retirement, including proper submission of
10 a written application for retirement benefits, should not be considered a "retiree" during the period of time
11 before the member actually began receiving benefit payments, even though the member may later receive
12 payments retroactive to an earlier commencement date. Because retirees may not earn membership service
13 or purchase service credits in the retirement systems and active and inactive members may not receive
14 benefit adjustments granted to current retirees, it is imperative to the actuarial soundness of the systems
15 to clarify the retirement date of each member.

16

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

18

19 NEW SECTION. **Section 1. Retaining qualified plan status -- board rulemaking authority.** If a
20 statutory provision affecting a retirement plan administered by the board conflicts with a qualification
21 requirement in section 401 of the Internal Revenue Code and consequent federal regulations, the provision
22 is either ineffective or must be interpreted to conform with the federal qualification requirements and allow
23 the system to retain tax-deferred status. The board may adopt rules to implement this section.

24

25 NEW SECTION. **Section 2. Absence due to injury or illness.** (1) Time, not to exceed 5 years,
26 during which a member is absent because of an injury or illness is considered membership service if, within
27 1 year after the end of the absence, the injury or illness is determined to have arisen out of and in the
28 course of the member's employment. However, the member may not earn service credits for the absence
29 unless the member complies with subsections (2) through (4), in which case the absence is considered as
30 time spent in service for both service credits and membership service.

1 (2) (a) A member absent because of an employment-related injury entitling the member to workers'
2 compensation payments may, upon the member's return to service, contribute an amount equal to the
3 contributions that the member would have made on the basis of the member's compensation at the
4 commencement of the member's absence plus regular interest accruing from 1 year from the date after the
5 member returns to covered service to the date the member contributes for the period of absence.

6 (b) Whenever a member elects to contribute under subsection (2)(a), the employer shall contribute
7 employer contributions for the period of absence based on the salary as calculated in subsection (2)(a) and
8 may pay interest on the employer's contribution calculated in the same manner as interest on the
9 employee's contribution under subsection (2)(a). An employer electing to make an interest payment shall
10 do so for all employees similarly situated. If the employer elects not to pay the interest costs, this amount
11 must be paid by the employee.

12 (3) At some time after returning to covered service, a member shall file with the board a written
13 notice of the member's intent to pay the contributions under subsection (2).

14 (4) Payment of the employee's contributions due because of the period of absence may be made
15 in one sum at the time of filing the notice or on an installment basis before termination of covered service.

16 (5) A member loses the right to contribute for an absence under this section if all of the member's
17 accumulated contributions are refunded pursuant to 19-2-602 or for the period of time during which
18 benefits are received if the member retires during the absence.

19
20 **NEW SECTION. Section 3. Time of commencement of benefit.** (1) (a) The board shall grant a
21 benefit to any member, or the member's statutory or designated beneficiary, who has fulfilled all eligibility
22 requirements, terminated covered service, and filed the appropriate written application.

23 (b) A member may apply for retirement benefits before terminating covered service, but
24 commencement of the benefits must be as provided in this section.

25 (2) (a) Except as provided in subsection (2)(b), the service retirement benefit may commence on
26 the first day of the month following the eligible member's last day of membership service or, if requested
27 by the inactive member in writing, on the first day of a later month following receipt of the written
28 application.

29 (b) If an elected official's term of office expires before the 15th day of the month, the official may
30 elect that service retirement benefits commence on the first day of the month following the official's last

1 full month in office. An official electing this option may not earn membership service, service credit, or
2 compensation for purposes of calculating final average salary under the retirement system in the partial
3 month ending the official's term, and compensation earned in that partial month is not subject to employer
4 or employee contributions.

5 (3) The disability retirement benefit payable to a member must commence on the day following the
6 member's termination from service.

7 (4) Monthly survivorship benefits must commence on the day following the death of the member.

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

10

11 **Section 4.** Section 2-6-109, MCA, is amended to read:

12 **"2-6-109. Prohibition on distribution or sale of mailing lists -- exceptions -- penalty.** (1) Except as
13 provided in subsections (3) through (8), in order to protect the privacy of those who deal with state and
14 local government:

15 (a) an agency may not distribute or sell for use as a mailing list any list of persons without first
16 securing the permission of those on the list; and

17 (b) a list of persons prepared by the agency may not be used as a mailing list except by the agency
18 or another agency without first securing the permission of those on the list.

19 (2) As used in this section, "agency" means any board, bureau, commission, department, division,
20 authority, or officer of the state or a local government.

21 (3) Except as provided in 30-9-403, this section does not prevent an individual from compiling a
22 mailing list by examination of original documents or applications that are otherwise open to public
23 inspection.

24 (4) This section does not apply to the lists of registered electors and the new voter lists provided
25 for in 13-2-115 and 13-38-103, to lists of the names of employees governed by Title 39, chapter 31, or
26 to lists of persons holding driver's licenses provided for under 61-5-126.

27 (5) This section does not prevent an agency from providing a list to persons providing prelicensing
28 or continuing educational courses subject to Title 20, chapter 30, or specifically exempted from that
29 chapter as provided in 20-30-102, or subject to Title 33, chapter 17.

30 (6) This section does not apply to the right of access either by Montana law enforcement agencies

1 or, by purchase or otherwise, of public records dealing with motor vehicle registration.

2 (7) This section does not apply to a corporate information list developed by the secretary of state
3 containing the name, address, registered agent, officers, and directors of business, nonprofit, religious,
4 professional, and close corporations authorized to do business in this state.

5 (8) This section does not apply to the use by the public employees' retirement board of a mailing
6 list of board-administered retirement system participants to send materials on behalf of a third party with
7 tax-exempt status under section ~~501(e)(3)~~ 501(c)(4) of the Internal Revenue Code, as amended, for a fee
8 determined by rules of the board, provided that the mailing list is not released to the third party.

9 (9) A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor."
10

10

11 **Section 5.** Section 19-2-303, MCA, is amended to read:

12 **"19-2-303. Definitions.** Unless the context requires otherwise, for each of the retirement systems
13 subject to this chapter, the following definitions apply:

14 (1) "Accumulated contributions" means the sum of all the regular and any additional contributions
15 made by a member in a system, together with the regular interest on the contributions.

16 (2) "Active member" means a member who is ~~an~~ a paid employee of an employer ~~and who~~, is
17 making the required contributions ~~to the system based on the member's compensation paid by the~~
18 employer, and is properly reported to the division for the most current reporting period.

19 (3) "Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory
20 manner to represent the present value of the benefits to be derived from the additional service to be
21 credited based on the most recent actuarial valuation for the system and the age, years until retirement,
22 and current salary of the member.

23 (4) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the
24 1971 Group Annuity Mortality Table, with ages set back 4 years and an interest rate of 8% compounded
25 annually.

26 (5) "Actuarial liabilities" means the excess of the present value of all benefits payable under a
27 retirement system over the present value of future normal costs in that retirement system.

28 (6) "Actuary" means the actuary retained by the board in accordance with 19-2-405.

29 (7) "Additional contributions" means contributions made by a member to purchase various types
30 of optional service credit as allowed by the applicable retirement system.

1 (8) "Annuity" means equal and fixed payments for life that are the actuarial equivalent of a
2 lump-sum payment under a retirement system and as such are not benefits paid by a retirement system and
3 are not subject to periodic or one-time increases.

4 (9) "Benefit" means the service or disability retirement or survivorship benefit payment provided
5 by a retirement system.

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

7 (11) "Contingent annuitant" means a person designated to receive a continuing ~~annuity~~ monthly
8 benefit after the death of a retired member.

9 (12) "Credited service" or "service credit" means the periods of time for which the required
10 contributions have been made to a retirement system and that are used to calculate service or disability
11 retirement or survivorship benefits under a retirement system.

12 (13) "Department" means the department of administration.

13 (14) "Designated beneficiary" means the person designated by a member or payment recipient to
14 receive any survivorship benefits or lump-sum payments upon the death of the member or payment
15 recipient, including annuities derived from the benefits or payments.

16 (15) "Disability" means a total inability of the member to perform the member's duties by reason
17 of physical or mental incapacity. The disability must be incurred while the member is an active member and
18 must be one of permanent duration or of extended and uncertain duration, as determined by the board on
19 the basis of competent medical opinion.

20 (16) "Division" means the public employees' retirement division of the department of administration.

21 (17) "Employee" means a person who is employed by an employer in any capacity and whose salary
22 is paid by the employer.

23 (18) "Employer" means a governmental entity participating in a retirement system enumerated in
24 19-2-302 on behalf of its eligible employees.

25 (19) "Essential elements of the position" means fundamental job duties. An element may be
26 considered essential because of but not limited to the following factors:

27 (a) the position exists to perform the element;

28 (b) there are a limited number of employees to perform the element; or

29 (c) the element is highly specialized.

30 (20) "Fiscal year" means any year commencing with July 1 and ending the following June 30.

1 (21) "Inactive member" means a member who ~~has terminated service with an employer and has not~~
2 ~~withdrawn the member's accumulated contributions from the retirement system~~ is not an active or retired
3 member.

4 (22) "Member" means any person with accumulated contributions and service credited with a
5 retirement system or receiving a retirement benefit on account of the person's previous service credited
6 in a retirement system.

7 (23) "Membership service" or "years of service" means the periods of service that are used to
8 determine eligibility for retirement or other benefits.

9 (24) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost
10 method required to fund accruing benefits for members of a retirement system during any year in the future.
11 Normal cost does not include any portion of the supplemental costs of a retirement system.

12 (25) "Pension" means benefit payments for life derived from contributions to a system made from
13 state- or employer-controlled funds.

14 (26) "Pension trust fund" means a fund established to hold the contributions, income, and assets
15 of a retirement system in public trust.

16 (27) "Regular contributions" means contributions required from members under a retirement system.

17 (28) "Regular interest" means interest at the rate set from time to time by the board.

18 (29) "Retirement" or "retired" means the status of a member who has terminated from service ~~with~~
19 and has received and accepted a retirement benefit ~~under~~ from a retirement system.

20 (30) "Retirement benefit" means the periodic benefit payable ~~following~~ as a result of service, early,
21 or disability retirement under a retirement system. An annuity is not a retirement benefit.

22 (31) "Retirement system" or "system" means one of the public employee retirement systems
23 enumerated in 19-2-302.

24 (32) "Service" means employment of an employee in a position covered by a retirement system.

25 (33) "Statutory beneficiary" means the surviving spouse or dependent child or children of a member
26 of the highway patrol officers', municipal police officers' or firefighters' unified retirement systems who are
27 statutorily designated to receive benefits upon the death of the member.

28 (34) "Supplemental cost" means an element of the total actuarial cost of a retirement system arising
29 from benefits payable for service performed prior to the inception of the retirement system or prior to the
30 date of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure to fund or

1 otherwise recognize normal cost accruals or interest on supplemental costs. These costs are included in
2 the unfunded actuarial liabilities of the retirement system.

3 ~~(34)~~(35) "Survivorship benefit" means payments for life to the statutory or designated beneficiary
4 of a deceased member who died while in service under a retirement system.

5 ~~(35)~~(36) "Termination of employment" or "termination of service" means that the member has
6 severed the employment relationship with the employer and has been paid all compensation due upon
7 termination of employment, including but not limited to payment of accrued annual leave credits, as
8 provided in 2-18-617, and payment of accrued sick leave credits, as provided in 2-18-618. For purposes
9 of this subsection, compensation as a result of legal action, court order, appeal, or settlement to which the
10 board was not party is not a payment due upon termination.

11 (37) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a retirement
12 system's actuarial liabilities at any given point in time over the value of its cash and investments on that
13 same date.

14 ~~(36)~~(38) "Vested member" or "vested" means a member or the status of a member who has
15 attained the minimum membership service requirements to be eligible for retirement benefits under a
16 retirement system.

17 ~~(37)~~(39) "Written application" means a written instrument duly executed and filed with the board
18 and containing all information required by the board, including such proofs of age as the board considers
19 necessary."
20

21 **Section 6.** Section 19-2-701, MCA, is amended to read:

22 "19-2-701. **Service credit.** Subject to the provisions of chapters 3, 5 through 9, and 13 ~~of this~~
23 ~~title~~, a member must receive 1 month of service credit for each full month of service under rules adopted
24 by the board. Service credits must be used in calculating a retirement or survivorship benefit. A retired
25 member is not eligible to earn service credit."
26

27 **Section 7.** Section 19-2-702, MCA, is amended to read:

28 "19-2-702. **Membership service.** A member who is not retired must receive membership service
29 for all periods of service, regardless of hours worked or compensation received during that service. The
30 service must be used to determine:

- 1 (1) whether a member is vested;
 2 (2) when the member is eligible for early or normal service retirement or disability retirement; or
 3 (3) the eligibility of beneficiaries for survivorship benefits."

4

5 **Section 8.** Section 19-2-704, MCA, is amended to read:

6 "**19-2-704. Purchasing service credits allowed.** (1) Subject to the rules promulgated by the board,
 7 an eligible member may elect to contribute amounts in addition to the mandatory employee contributions
 8 required by the retirement system in which the member participates for the purpose of purchasing service
 9 credits as provided by the statutes governing the retirement system.

10 (2) A member eligible to qualify service under the provisions of 19-3-509, 19-3-511, 19-6-802,
 11 19-7-802, 19-8-902, 19-9-405, and 19-13-404 may, at any time prior to retirement, elect to transfer all
 12 or a portion of the member's accumulated contributions on deposit in a pension trust fund from which
 13 service is being transferred to the pension trust fund of another plan in which service is being credited. The
 14 transfer of contributions may include both taxed contributions and tax-deferred contributions and interest.
 15 However, if less than all of the accumulated contributions on deposit in a pension trust fund is being
 16 transferred, the transfer of taxed and tax-deferred amounts must be made on a proportionate basis, with
 17 the remainder refunded to the member. The transferring agency shall identify at the time of the transfer the
 18 taxed and tax-deferred amounts being transferred.

19 (3) Subject to any statutory provision establishing stricter limitations, only active or vested inactive
 20 members are eligible to purchase, qualify, or transfer service credits, membership service, or contributions."

21

22 **Section 9.** Section 19-2-801, MCA, is amended to read:

23 "**19-2-801. Designation of beneficiary.** In the absence of any ~~statutorily designated persons~~
 24 statutory beneficiaries, ~~the designated beneficiaries of a member~~ are the natural persons, ~~charitable~~
 25 ~~organizations, or trusts for the benefit of natural living persons~~ that the member or payment recipient
 26 designates on the membership card or other form provided by the division. Unless otherwise provided by
 27 statute, a member or payment recipient may revoke the designation and name different designated
 28 beneficiaries by filing with the board a new membership card ~~with the board~~ or other form provided by the
 29 division."

30

1 **Section 10.** Section 19-2-802, MCA, is amended to read:

2 **"19-2-802. Effect of no designation or no surviving designated beneficiary.** (1) If a living statutory
 3 or designated beneficiary, existing charitable organization, or natural living person who is the beneficiary
 4 of a trust is not designated does not survive the member or payment recipient, the estate of the member
 5 or payment recipient is the designated beneficiary entitled to any lump-sum payment or retirement benefit
 6 accrued but not received prior to the statutory or designated beneficiary's death. If the estate would not
 7 be probated but for the amount due from the retirement system, all of the amount due, ~~including retirement~~
 8 ~~benefits accrued but not received prior to death,~~ must be paid directly, without probate, to the surviving
 9 next of kin of the deceased or the guardians of the survivor's estate, share and share alike.

10 (2) Payment must be made in the same order in which the following groups are listed:

- 11 (a) husband or wife;
- 12 (b) children;
- 13 (c) father and mother;
- 14 (d) grandchildren;
- 15 (e) brothers and sisters; or
- 16 (f) nieces and nephews.

17 (3) A payment may not be made to a person included in any of the groups listed in subsection (2)
 18 if at the date of payment there is a living person in any of the groups preceding the group of which the
 19 person is a member, as listed. Payment must be made upon receipt from the person of an affidavit, upon
 20 a form supplied by the retirement division, that there are no living individuals in the groups preceding the
 21 group of which the person is a member and that the estate of the deceased will not be probated.

22 (4) The payment must be in full and complete discharge and acquittance of the board and system
 23 on account of the member's or payment recipient's death."

24
 25 **Section 11.** Section 19-2-907, MCA, is amended to read:

26 **"19-2-907. Alternate payees -- family law orders.** (1) A participant in a retirement system may
 27 have the participant's rights modified or recognized by a family law order.

28 (2) For purposes of this section:

- 29 (a) "participant" means a member or an actual or potential beneficiary, survivor, or contingent
 30 annuitant of a retirement system designated pursuant to Title 19, chapter 3, 5, 6, 7, 8, 9, 13, or 17; and

1 (b) "family law order" means a judgment, decree, or order of a court of competent jurisdiction
2 under Title 40 concerning child support, parental support, spousal maintenance, or marital property rights
3 that includes a transfer of all or a portion of a participant's payment rights in a retirement system to an
4 alternate payee in compliance with this section.

5 (3) A family law order must identify an alternate payee by full name, current address, and social
6 security number. An alternate payee's rights and interests granted in compliance with this section are not
7 subject to assignment, execution, garnishment, attachment, or other process. An alternate payee's rights
8 or interests may be modified only by a family law order amending the family law order that established the
9 right or interest.

10 (4) A family law order may not require:

11 (a) a type or form of benefit, option, or payment not available to the affected participant under the
12 appropriate retirement system; or

13 (b) an amount or duration of payment greater than that available to a participant under the
14 appropriate retirement system.

15 (5) A family law order may only provide for payment to an alternate payee as follows:

16 (a) Service retirement benefit payments or withdrawals of member contributions may be
17 apportioned by directing payment of a percentage of the amount payable or payment of a fixed amount of
18 no more than the amount payable to the participant.

19 (b) The maximum amount of disability or survivorship benefits that may be apportioned to alternate
20 payees is the monthly benefit amount that would have been payable on the date of termination of service
21 if the member had retired without disability or death. Conversion of a disability retirement to a service
22 retirement pursuant to 19-2-406(4), 19-3-1015(2), 19-6-612(2), or 19-8-712(2) does not increase the
23 maximum monthly amount that may be apportioned to an alternate payee.

24 (c) Retirement benefit adjustments for which a participant is eligible after retirement may be
25 apportioned only if existing benefit payments are apportioned. The adjustments must be apportioned in the
26 same ratio as existing benefit payments.

27 (d) Payments must be limited to the life of the appropriate participant. The duration of payments
28 to an alternate payee may be further limited only to a specified maximum time, the life of the alternate
29 payee, or the life of a specified participant. Payments to an alternate payee may be limited to a specific
30 amount per month if the number of payments is specified. The alternate payee's rights and interests survive

1 the alternate payee's death and may be transferred by inheritance.

2 (e) The participant may be required to choose a specified form of benefit payment or designate a
3 beneficiary or contingent annuitant if the retirement system allows for that option.

4 (6) The board may assess a participant or an alternate payee for all costs of reviewing and
5 administering a family law order, including reasonable attorney fees. The board may adopt rules to
6 implement this section.

7 (7) A court may not enter a family law order unless terms of the proposed order that relate to
8 payments by the retirement system have been approved by the board."

9

10 **Section 12.** Section 19-3-401, MCA, is amended to read:

11 "**19-3-401. Membership -- inactive vested members -- inactive nonvested members.** (1) Except
12 as otherwise provided in this chapter, all ~~eligible~~ employees shall become members on the first day of
13 ~~covered employment~~ service. Each ~~eligible employee~~ employer shall file with the board information affecting
14 ~~the employee's~~ their employees' status as ~~a member~~ members of the retirement system as the board may
15 require.

16 (2) A member with at least 5 years of membership service who terminates service and does not
17 take a refund of the member's accumulated contributions is an inactive vested member and retains the right
18 to purchase service and to receive a service retirement benefit subject to the provisions of this chapter.

19 (3) A member with less than 5 years of membership service who terminates service and leaves the
20 member's accumulated contributions in the pension trust fund is an inactive nonvested member and is not
21 eligible for any benefits from the retirement system. An inactive nonvested member is eligible only for a
22 refund of the member's accumulated contributions.

23 (4) Every employee who reenters service shall become a member unless the employee has had an
24 original election of exemption from membership and the employee's service was not interrupted by a break
25 of more than 1 month. A seasonal employee who has had an original election of exemption from
26 membership is not subject to the requirement regarding the break in service while continuing in the
27 employee's original employment and employed on a seasonal basis, but upon termination of employment
28 to accept new employment or absence of more than 1 month in returning to original employment in any
29 ensuing season, the seasonal employee shall become a member of the retirement system upon reentry.

30 (5) Time during which an employee of a school district is absent from service during official

1 vacation is counted as service in determining eligibility for membership under this chapter."

2

3 **Section 13.** Section 19-3-412, MCA, is amended to read:

4 **"19-3-412. Optional membership.** (1) The following employees in covered employment may
5 become members of the retirement system at their option at any time during their employment in a covered
6 position by filing a membership card with the board:

7 ~~(1)~~(a) elected officials of the state or local governments who are paid on a salary or wage basis
8 rather than on a per diem or other reimbursement basis;

9 ~~(2)~~(b) part-time employees serving in employment that does not exceed ~~the equivalent of 120~~
10 ~~working days~~ a total of 960 hours of employment covered by this chapter in any fiscal year;

11 ~~(3)~~(c) employees directly appointed by the governor;

12 ~~(4)~~(d) employees working 6 months or less for the legislative branch to perform work related to
13 the legislative session;

14 ~~(5)~~(e) the chief administrative officer of any city or county;

15 ~~(6)~~(f) employees of county hospitals or rest homes in the sixth- and seventh-class counties.

16 (2) If an employee declines optional membership, the employee shall execute a statement waiving
17 membership and the employer shall retain the statement."

18

19 **Section 14.** Section 19-3-504, MCA, is amended to read:

20 **"19-3-504. Absence due to illness or injury.** (1) Time, not to exceed 5 years, during which a
21 member is absent from service ~~by reason because~~ of injury or illness ~~determined within 1 year after the end~~
22 ~~of the absence as arising out of and in the course of the member's employment~~ is considered membership
23 service if, within 1 year after the end of the absence, the injury or illness is determined to have arisen out
24 of and in the course of the member's employment. However, the member may not earn service credits for
25 this period unless the member complies with subsections (2) through (4), in which case the absence is
26 considered as time spent in service for both service credits and membership ~~credits~~ service.

27 (2) (a) ~~Any~~ A member absent because of an employment-related injury ~~that entitles~~ entitling the
28 member to workers' compensation payments may, upon the member's return to service, contribute to the
29 retirement system, ~~upon the member's return to service,~~ an amount equal to the contributions that would
30 have been made by the member to the system on the basis of the member's compensation at the

1 commencement of the member's absence plus regular interest accruing from 1 year from the date after the
2 member returns to covered service to the date the member contributes for the period of absence.

3 (b) Whenever a member elects to contribute under subsection (2)(a), the employer shall contribute
4 ~~an amount equal to what its employer contributions would have been had the member not been absent from~~
5 ~~service. In addition, the employer may contribute an amount equal to the interest accruing for the period~~
6 of absence based on the salary as calculated in subsection (2)(a) and may pay interest on the employer's
7 contribution calculated in the same manner as interest on the employee's contribution under subsection
8 (2)(a). An employer electing to make ~~a contribution~~ an interest payment shall do so for all employees
9 similarly situated. If the employer elects not to pay the interest costs, this amount must be paid by the
10 employee.

11 (3) At some time after returning to covered service, a member shall file with the board a written
12 notice of the member's intent to pay the contributions under subsection (2).

13 (4) Payment of the employee's contributions that are due because of the period of absence may
14 be made in one sum at the time of filing the notice or on an installment basis before termination of covered
15 service.

16 (5) A member loses the right to contribute for an absence under this section if all of the member's
17 accumulated contributions are refunded pursuant to 19-2-602 or for the period of time during which
18 retirement benefits are received if the member retires during the absence."

19

20 **Section 15.** Section 19-3-511, MCA, is amended to read:

21 "**19-3-511. Transfer of service credits and contributions from teachers' retirement system.** (1) An
22 active member may at any time before retirement make a written election with the board to qualify in the
23 public employees' retirement system all of the member's service in the teachers' retirement system for
24 which the member either has received or is eligible to receive a refund.

25 (2) The amount that must be paid or transferred to the retirement system to qualify this service
26 under this section is the sum of subsections (2)(a) and ~~(2)(b)~~ as follows:

27 ~~(2) In addition to the amounts directly paid or transferred by the member under subsection (3), the~~

28 (a) The teachers' retirement system shall transfer ~~to the public employees' retirement system~~ an
29 amount equal to 72% of the amount payable by the member.

30 ~~(3)(b)~~ The member shall pay either directly or by transferring contributions on account with the

1 teachers' retirement system an amount equal to the member's accumulated contributions at the time that
 2 active membership was terminated with the teachers' retirement system, plus accrued interest. Interest
 3 must be calculated from the date of termination until payment is received by the public employees'
 4 retirement system, based on the interest tables in use by the teachers' retirement system.

5 ~~(4)~~(3) The amount of service credit granted in subsection (1) must be on a month-by-month basis.
 6 Military service credit transferred from the teachers' retirement system must be included in the 5-year
 7 maximum military service credit provided for in 19-3-503.

8 ~~(5)~~(4) Subject to the provisions of 19-2-403, the board is the sole authority in determining the
 9 amount of service credit qualified under this section and the amount paid to the retirement system under
 10 ~~subsections~~ subsection (2) and (3).

11 ~~(6)~~(5) If an active member who also has service credit in the teachers' retirement system dies
 12 before the member qualifies this service in the public employees' retirement system and if the service
 13 credits from both systems, when combined, entitle the member's designated beneficiary to a survivorship
 14 benefit, the payment of the survivorship benefit is the liability of the public employees' retirement system.
 15 Before payment of the survivorship benefit, the teachers' retirement board shall transfer to the public
 16 employees' retirement system the contributions necessary to qualify this service in the public employees'
 17 retirement system as provided in ~~subsections~~ subsection (2) and (3).

18 (6) If the board determines that a member was erroneously classified and reported to the teachers'
 19 retirement system, the member's accumulated contributions and service, together with the employer
 20 contributions plus interest, must be transferred to the public employees' retirement system. Employee and
 21 employer contributions due as calculated under 19-3-315 and 19-3-316 are the liability of the employee
 22 and the employing entity, respectively, where the error occurred. For the period of time that the employer
 23 contributions are held by the teachers' retirement system, interest paid on employer contributions
 24 transferred under this subsection must be calculated at the short-term investment pool rate earned by the
 25 board of investments in the fiscal year preceding the transfer request."

26

27 **Section 16.** Section 19-3-513, MCA, is amended to read:

28 **"19-3-513. Election to purchase additional service.** (1) At any time before retirement, a person
 29 who became a member of the retirement system before July 1, 1989, and who has 5 years or more of
 30 membership service may make a written election with the board to purchase additional service credit for

1 the purpose of calculating the member's retirement benefit. Except as provided in subsection (3), the
 2 member may purchase 1 year of additional service credit for each 5 years of membership service that the
 3 member has qualified under the retirement system, up to a maximum of 5 years of additional service.

4 (2) For each year of service credit purchased under this section, a member shall ~~contribute~~ make
 5 additional contributions to the pension trust fund in an amount equal to the member's compensation for
 6 the 12-month period ~~immediately~~ of full-time service most recently preceding the date on which the member
 7 elects to purchase the service multiplied by the combined employee and employer contribution rates
 8 contained in 19-3-315 and 19-3-316. ~~Contributions~~ Additional contributions may be made in a lump-sum
 9 payment or ~~by making additional contributions~~ in installments as agreed upon by the member and the board.
 10 Inactive members shall pay interest from the date of termination to the date of payment. Active members
 11 shall pay interest from the date of contracting to the date of payment. The board shall set interest rates
 12 and approve contracts.

13 (3) (a) Except as provided in subsection (3)(b), after January 1, 1990, a member may elect to
 14 qualify a combined total of 5 years of service under 19-3-503, 19-3-512, or this section.

15 (b) A member who has purchased service under 19-3-503 or 19-3-512 on or before January 1,
 16 1990, and who elects to purchase service under this section shall receive credit for the full months of
 17 service purchased on or before January 1, 1990.

18 (4) Service purchased under this section is not membership service and may not be used to qualify
 19 a member for service retirement."
 20

21 **Section 17.** Section 19-3-1015, MCA, is amended to read:

22 **"19-3-1015. Medical examination of disability retiree -- cancellation and reinstatement.** (1) The
 23 board may, in its discretion, require a disabled member to undergo a medical examination. The examination
 24 must be made by a physician or surgeon appointed by the board, at a place mutually agreed upon by the
 25 retired member and the board. Upon the basis of the examination, the board shall determine whether the
 26 disabled member is unable, by reason of physical or mental incapacity, to perform the essential elements
 27 of either the position held by the member when the member retired or the position proposed to be assigned
 28 to the member. If the board determines the member is not incapacitated or if the member refuses to submit
 29 to a medical examination, the member's retirement benefit must be canceled.

30 (2) If the board determines that a disabled member should no longer be subject to medical review,

1 the board may grant service retirement status to the member without recalculating the monthly benefit. The
 2 board shall notify the member in writing as to the change in status. If the disabled member disagrees with
 3 the board's determination, the member may request the board to reconsider its action. The request for
 4 reconsideration must be made in writing within 60 days after receipt of the notice of the status change.

5 (3) A (a) Except as provided in subsections (3)(b) and (3)(c), a member whose disability retirement
 6 benefit is canceled because the board has determined that the member is no longer incapacitated must be
 7 reinstated to the position held by the member immediately before the member's retirement or to a position
 8 in the same classification a comparable pay and benefit category with duties within the member's capacity
 9 if the member was an employee of the state or of the university. If the member was an employee of a
 10 contracting employer, the board shall notify the proper official of the contracting employer that the disability
 11 retirement benefit has been canceled and that the former employee is eligible for reinstatement to duty. The
 12 fact that the former employee was retired for disability may not prejudice any right to reinstatement to duty
 13 that the former employee may have or claim to have.

14 (b) A member who is employed by an employer terminates any right to reinstatement provided by
 15 this section.

16 (c) This section does not affect any requirement that the former employee meet or be able to meet
 17 professional certification and licensing standards unrelated to the disability and necessary for reinstatement
 18 to duty.

19 (4) If a member whose disability retirement benefit is canceled is not reemployed in a position
 20 subject to the retirement system, the member's service is considered, for the purposes of 19-2-602, to
 21 have been discontinued coincident with the commencement of the member's retirement benefit."
 22

23 **Section 18.** Section 19-3-1104, MCA, is amended to read:

24 **"19-3-1104. Cancellation of disability retirement benefit upon reemployment.** ~~Any~~ A person
 25 receiving a disability retirement benefit who becomes an employee is considered reinstated to service from
 26 retirement, and the person's disability retirement benefit ~~is~~ must be canceled."
 27

28 **Section 19.** Section 19-3-1601, MCA, is amended to read:

29 **"19-3-1601. Eligibility for postretirement adjustment.** (1) Except as provided in subsection (2), a
 30 benefit recipient is eligible to receive a postretirement adjustment as provided in 19-3-1603 if the person

1 is receiving a:

2 ~~(a) monthly service retirement benefit, and is 55 years of age or older on or before June 30 in the~~
3 ~~year that the postretirement adjustment is made; or~~

4 ~~(b) disability retirement benefit, or survivorship benefit.~~

5 (2) A benefit recipient is ineligible to receive a postretirement adjustment under subsection (1)
6 unless the recipient has been receiving a monthly service, disability, or survivorship benefit for at least 24
7 consecutive months on or before June 30 in the year the adjustment is made."

8

9 **Section 20.** Section 19-5-103, MCA, is amended to read:

10 "**19-5-103. Call of retired judge for duty.** (1) Every judge or justice who has voluntarily retired after
11 8 years of service ~~shall~~ must, if physically and mentally able, be subject to call for duty by the supreme
12 court or the chief justice to aid and assist the supreme court, any district court, or any water court under
13 directions as the supreme court may give, including the examination of the facts, cases, and authorities
14 cited, and the preparation of opinions for and on behalf of the supreme court, district court, or water court,
15 or to serve as water judge. The opinions, when and if and to the extent approved by the court, may by the
16 court be ordered to constitute the opinion of the court. The court and the retired judge or justice may,
17 subject to any rule that the supreme court may adopt, perform any ~~and all~~ duties preliminary to the final
18 disposition of cases that are not inconsistent with the constitution of the state.

19 (2) A retired judge or justice, when called to ~~service~~ duty, must be reimbursed for actual expenses,
20 if any, in responding to the call. In addition, for each day of ~~service~~ duty, a retired justice or judge is
21 entitled to receive compensation in an amount equal to one-twentieth of the monthly salary then currently
22 applicable to the judicial position in which the ~~service~~ duty is rendered minus an amount equal to
23 one-twentieth of the monthly retirement benefit that the retired justice or judge is receiving, if any, for each
24 day of ~~service~~ duty rendered."

25

26 **Section 21.** Section 19-5-601, MCA, is amended to read:

27 "**19-5-601. Disability retirement benefit.** In case of the disability of a member, a disability
28 retirement benefit must be granted the member in an amount actuarially equivalent to the service retirement
29 benefit standing to the member's credit at the time of the member's disability retirement. If the disability
30 is a direct result of any service ~~to~~ or duty for the Montana judiciary ~~in the line of duty~~, the member must

1 ~~receive a member's total benefit must equal to~~ one-half of the member's final current salary or the benefit
 2 provided in 19-5-502, whichever is greater."
 3

4 **Section 22.** Section 19-5-801, MCA, is amended to read:

5 **"19-5-801. Payments upon employment-related death.** If the board finds that a member died as
 6 a direct and proximate result of injury received in the course of the member's service or duty, a survivorship
 7 benefit must be paid to the member's designated beneficiary. The survivorship benefit is the greater of the
 8 actuarial equivalent of a member's service retirement benefit provided for in 19-5-502 standing to the
 9 member's credit on the date of death or of the contingent annuitant's benefit, if applicable. "
 10

11 **Section 23.** Section 19-6-501, MCA, is amended to read:

12 **"19-6-501. Eligibility and application for service retirement benefit — commencement of benefit.**

13 (1) ~~(a)~~ A member first employed by the Montana highway patrol on or before July 1, 1985, is eligible to
 14 receive a service retirement benefit after completing 20 years or more of membership service and
 15 terminating service.

16 ~~(b)(2)~~ A member first employed by the Montana highway patrol after July 1, 1985, is eligible to
 17 receive a service retirement benefit when the member has reached age 50, completed 20 years or more
 18 of membership service, and terminated service.

19 ~~(2) A member eligible to receive a retirement benefit, as provided in subsection (1), shall apply in~~
 20 ~~writing to the division.~~

21 ~~(3) (a) Except as provided in subsection (3)(b), the retirement benefit may commence on the first~~
 22 ~~day of the month following the member's last day of covered service or, if requested by the inactive~~
 23 ~~member in writing, on the first day of the month following receipt of the written application.~~

24 ~~(b) The retirement benefit for an eligible member who has terminated service must commence no~~
 25 ~~later than the first day of the month following the member's 60th birthday."~~

26
 27 **Section 24.** Section 19-6-612, MCA, is amended to read:

28 **"19-6-612. Medical examination of disability retiree -- cancellation of benefit.** (1) The board may
 29 require the recipient of a disability retirement benefit to undergo a medical examination. The examination
 30 must be made by a physician or surgeon at the recipient's place of residence or at another place mutually

1 agreed on, at the board's expense. Upon the basis of the examination, the board shall determine whether
 2 the recipient can perform the essential elements of the position held by the recipient when the recipient
 3 retired. If the board determines that the recipient is not incapacitated, the recipient's disability retirement
 4 benefit must be canceled when the recipient is offered a position under subsection (3) or when, if a position
 5 is available, the recipient cannot be reinstated under subsection (3) for reasons unrelated to the disability.
 6 If the recipient refuses to submit to a medical examination, the recipient's disability retirement benefit must
 7 be canceled.

8 (2) If the board determines that a recipient of a disability retirement benefit should no longer be
 9 subject to medical review, the board may grant a service retirement status to the recipient without
 10 recalculating the recipient's monthly benefit. The board shall notify the recipient in writing as to the change
 11 in status. If the recipient disagrees with the board's determination, the recipient may request the board to
 12 reconsider its action. The request for reconsideration must be made in writing within 60 days after receipt
 13 of the notice of the status change.

14 (3) ~~A~~ (a) Except as provided in subsection (3)(b), a recipient whose disability retirement benefit
 15 is canceled because the board has determined that the recipient is no longer incapacitated must be
 16 reinstated to the position held by the recipient immediately before the recipient's retirement or to a position
 17 in the same classification a comparable pay and benefit category within the recipient's capacity, whichever
 18 is first open. The fact that the recipient was retired for disability may not prejudice any right to
 19 reinstatement to duty that the recipient may have or claim to have.

20 (b) This section does not affect any requirement that the former employee meet or be able to meet
 21 professional certification and licensing standards unrelated to the disability and necessary for reinstatement
 22 to duty.

23 (4) The department of justice may request a medical or psychological review as to the ability of
 24 the recipient to return to work as a member of the highway patrol. If the board's findings are upheld, the
 25 department of justice shall pay the cost of the review."
 26

27 **Section 25.** Section 19-7-501, MCA, is amended to read:

28 **"19-7-501. Eligibility and application for service retirement — commencement of benefit.** (1) A
 29 member who has completed at least 20 years of membership service may retire on a service retirement
 30 benefit.

1 ~~(2) A member electing to retire shall apply in writing to the board.~~

2 ~~(3) (a) Except as provided in subsections (3)(b) and (3)(c), the retirement benefit may commence~~
 3 ~~on the first day of the month following the member's last day of service or, if requested by the inactive~~
 4 ~~member in writing, on the first day of the month following receipt of the written application.~~

5 ~~(b) The retirement benefit for an eligible inactive member must commence no later than the first~~
 6 ~~day of the month following the member's 65th birthday.~~

7 ~~(c) If an elected official's term of office expires before the 15th day of the month, the official may~~
 8 ~~elect to retire on the first day of the last month of the term of office. An official electing this option may~~
 9 ~~not earn service or compensation for purposes of final average salary under the retirement system in that~~
 10 ~~month, and compensation earned in that month is not subject to employer or member contributions."~~

11

12 **Section 26.** Section 19-7-612, MCA, is amended to read:

13 **"19-7-612. Medical examination of disability retiree -- cancellation of benefit.** (1) The board, in
 14 its discretion, may require the recipient of a disability retirement benefit to undergo a medical examination.
 15 The examination must be made by a physician or surgeon at the recipient's place of residence or at another
 16 place mutually agreed on, at the board's expense. Upon the basis of the examination, the board shall
 17 determine, by reason of physical or mental capacity, whether the recipient can perform the essential
 18 elements of the position held by the recipient when the recipient was retired. If the board determines that
 19 the recipient is not incapacitated, the recipient's disability retirement benefit must be canceled when the
 20 recipient is offered a position under subsection (2) or when, if a position is available, the recipient cannot
 21 be reinstated under subsection (2) for reasons unrelated to the disability. If the recipient refuses to submit
 22 to a medical examination, the recipient's disability retirement benefit must be canceled when the recipient
 23 is notified of the determination of the board.

24 (2) A (a) Except as provided in subsection (2)(b), a person other than an elected official whose
 25 disability retirement benefit is canceled because the person is no longer incapacitated must be reinstated
 26 to the position held by the person immediately before the person's retirement or to a position in the same
 27 classification a comparable pay and benefit category within the person's capacity, whichever is first open.
 28 The fact that the person was retired for disability may not prejudice any right to reinstatement to duty that
 29 the person may have or claim to have.

30 (b) This section does not affect any requirement that the former employee meet or be able to meet

1 professional certification and licensing standards unrelated to the disability and necessary for reinstatement.

2 (3) The public body required to reinstate a person under subsection (2) may request a medical or
3 psychological review as to the ability of the member to return to work as a member of the sheriff's
4 department. If the board's findings are upheld, the public body shall pay the cost of the review."

5
6 **Section 27.** Section 19-7-708, MCA, is amended to read:

7 **"19-7-708. Eligibility for postretirement adjustment.** (1) Except as provided in subsection (2), a
8 benefit recipient is eligible to receive a postretirement adjustment as provided in 19-7-710 if the recipient
9 is receiving a:

10 (a) monthly service retirement benefit, and is 55 years of age or older on or before June 30 in the
11 year that the postretirement adjustment is made; or

12 (b) disability retirement benefit, or survivorship benefit.

13 (2) A benefit recipient is ineligible to receive a postretirement adjustment under subsection (1)
14 unless the monthly service, disability, or survivorship benefit has been paid for at least 24 consecutive
15 months on or before June 30 in the year the adjustment is made."

16
17 **Section 28.** Section 19-8-601, MCA, is amended to read:

18 **"19-8-601. Time of retirement -- commencement of benefit.** (1) ~~Any A~~ member in service who has
19 completed at least 20 years of membership service, reached the age of 50 years, and terminated service
20 may retire with a service retirement benefit upon written application to the board.

21 ~~(2) (a) Except as provided in subsection (2)(b), the retirement benefit may commence on the first~~
22 ~~day of the month following the member's last day of service or, if requested by the inactive member in~~
23 ~~writing, on the first day of the month following receipt of the written application.~~

24 ~~(b) The retirement benefit for an eligible inactive member must commence no later than the first~~
25 ~~day of the month following the member's 60th birthday."~~

26
27 **Section 29.** Section 19-8-712, MCA, is amended to read:

28 **"19-8-712. Medical examination of disability retiree -- cancellation of benefit.** (1) The board, in
29 its discretion, may require the recipient of a disability retirement benefit to undergo a medical examination.
30 The examination must be made by a physician or surgeon at the recipient's place of residence or at another

1 place mutually agreed on, at the board's expense. Upon the basis of the examination, the board shall
 2 determine, by reason of physical or mental capacity, whether the recipient can perform the essential
 3 elements of the position held by the recipient when the recipient retired. If the board determines that the
 4 recipient is not incapacitated, the recipient's disability retirement benefit must be canceled when the
 5 recipient is offered a position under subsection (3) or when, if a position is available, the recipient cannot
 6 be reinstated under subsection (3) for reasons unrelated to the disability. If the recipient refuses to submit
 7 to a medical examination, the recipient's disability retirement benefit must be canceled when the recipient
 8 is notified of the determination of the board.

9 (2) If the board determines that a recipient of a disability retirement benefit should no longer be
 10 subject to medical review, the board may grant a service retirement status to the recipient without
 11 recalculating the recipient's monthly benefit. The board shall notify the recipient in writing as to the change
 12 in status. If the recipient disagrees with the board's determination, the recipient may request the board to
 13 reconsider its action. The request for reconsideration must be made in writing within 60 days after receipt
 14 of the notice of the status change.

15 (3) ~~A~~ (a) Except as provided in subsection (3)(b), a recipient whose disability retirement benefit is
 16 canceled because the board has determined that the recipient is no longer incapacitated must be reinstated
 17 to the position held by the recipient immediately before the recipient's retirement or to a position in the
 18 same classification a comparable pay and benefit category within the recipient's capacity, whichever is first
 19 open. The fact that the recipient was retired for disability may not prejudice any right to reinstatement to
 20 duty that the recipient may have or claim to have.

21 (b) This section does not affect any requirement that the former employee meet or be able to meet
 22 professional certification and licensing standards unrelated to the disability and necessary for reinstatement.

23 (4) The department of fish, wildlife, and parks may request a medical or psychological review as
 24 to the ability of the recipient to return to work as a game warden. If the board's findings are upheld, the
 25 department of fish, wildlife, and parks shall pay the cost of the review."
 26

27 **Section 30.** Section 19-8-1101, MCA, is amended to read:

28 "**19-8-1101. Eligibility for postretirement adjustment.** (1) Except as provided in subsection (2), a
 29 benefit recipient is eligible to receive a postretirement adjustment as provided in 19-8-1103 if the recipient
 30 is receiving a:

1 ~~(a) monthly service retirement benefit, and is 55 years of age or older on or before June 30 in the~~
2 ~~year that the postretirement adjustment is made; or~~

3 ~~(b) disability retirement benefit, or survivorship benefit.~~

4 (2) A benefit recipient is ineligible to receive a postretirement adjustment under subsection (1)
5 unless the monthly service, disability, or survivorship benefit has been paid for at least 24 consecutive
6 months on or before June 30 in the year the adjustment is made."

7
8 **Section 31.** Section 19-9-801, MCA, is amended to read:

9 "**19-9-801. Eligibility for service retirement — commencement of benefit.** (1) Members are eligible
10 for retirement as provided in this section.

11 (2) A member is eligible to receive a service retirement benefit when the member has completed
12 20 years or more of membership service and has terminated service.

13 (3) A member who terminates service after completing at least 10 years of membership service
14 but prior to completing 20 years of membership service is eligible to receive a service retirement benefit
15 when the member has reached 50 years of age.

16 ~~(4) (a) Except as provided in subsection (4)(b), the retirement benefit may commence on the first~~
17 ~~day of the month following the member's minimum retirement date or, if requested by the inactive member~~
18 ~~in writing, on the first day of the month following receipt of the written application.~~

19 ~~(b) The retirement benefit for an eligible inactive member must commence no later than the first~~
20 ~~day of the month following the member's 55th birthday."~~

21
22 **Section 32.** Section 19-9-904, MCA, is amended to read:

23 "**19-9-904. Termination of disability benefit.** The board, in its discretion, may require the recipient
24 of a disability retirement benefit to undergo a medical examination. The examination must be made by a
25 physician or surgeon at the recipient's place of residence or at another place mutually agreed on, at the
26 board's expense. Upon the basis of the examination, the board shall determine, by reason of physical or
27 mental capacity, whether the recipient can perform the essential elements of the position held by the
28 recipient when the recipient was retired. If an inactive member is determined by the board to be no longer
29 disabled, the inactive member's disability retirement benefit must be canceled when the inactive member
30 is offered a position under 19-9-905 or when, if a position is available, the former employee could not be

1 reinstated under 19-9-905 for reasons unrelated to the disability. If the inactive member refuses to submit
 2 to a medical examination, the inactive member's disability retirement benefit must cease as of the date of
 3 the determination. The inactive member must be notified of the determination by the board. The board may
 4 review the status of an inactive member at any time."

5
 6 **Section 33.** Section 19-9-905, MCA, is amended to read:

7 **"19-9-905. Reinstatement upon termination of disability benefit.** (1) ~~A (a) Except as provided in~~
 8 subsection (1)(b), a retired member whose disability retirement benefit is cancelled as provided in 19-9-904
 9 must be reinstated to the position held by the member immediately before retirement or to a position in ~~the~~
 10 same classification a comparable pay and benefit category with duties within the member's capacity,
 11 whichever is first open. The board shall advise the employer that the disability retirement benefit has been
 12 cancelled and that the member is eligible for reinstatement to duty. The fact that the member was retired
 13 for disability may not prejudice any right to reinstatement to duty that the member may have or claim to
 14 have.

15 (b) This section does not affect any requirement that the former employee meet or be able to meet
 16 professional certification and licensing standards unrelated to the disability and necessary for reinstatement.

17 (2) The city may request a medical or psychological review as to the ability of the member to return
 18 to work as a police officer. If the board's findings are upheld, the city shall pay the costs of the review.

19 (3) If the retired member again becomes an active member by returning to service with an employer
 20 within 30 days following receipt of notice under 19-9-904, the member must be considered to have been
 21 continuously employed during the term of the member's disability. If the retired member fails to become
 22 an active member by returning to service with an employer within 30 days following receipt of the notice,
 23 the member's termination of service is considered to have occurred as of the member's disability retirement
 24 date and the retirement benefit, if any, to which the member becomes entitled on the member's service
 25 retirement date must be determined accordingly."

26
 27 **Section 34.** Section 19-13-701, MCA, is amended to read:

28 **"19-13-701. Eligibility for service retirement — ~~commencement of benefit.~~** (1) A member who has
 29 completed 20 years or more of membership service is eligible for service retirement ~~commencing on the first~~
 30 ~~day of the month following the member's last day of service.~~

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

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

8

9 **Section 35.** Section 19-13-804, MCA, is amended to read:

10 **"19-13-804. Medical examination of disability retiree -- cancellation of benefit.** (1) The board, in
 11 its discretion, may require the recipient of a disability retirement benefit to undergo a medical examination
 12 at the board's expense. The examination must be made by a physician or surgeon at the recipient's place
 13 of residence or at another place mutually agreed on. Based on the results of the examination, the board
 14 shall determine whether the recipient has the physical or mental capacity to perform the essential elements
 15 required by the recipient's former position. If the board determines that the recipient is not incapacitated,
 16 ~~or if the recipient refuses to submit to a medical examination, or if, when a position is available, the~~
 17 ~~recipient cannot be reinstated under 19-13-805 for reasons unrelated to the disability,~~ the recipient's
 18 disability retirement benefit must be canceled. The board shall notify the recipient of this determination and
 19 the cancellation of the recipient's benefit.

20 (2) The cancellation of a disability retirement benefit because a member is no longer incapacitated
 21 does not prejudice any right of the member to a service retirement benefit."

22

23 **Section 36.** Section 19-13-805, MCA, is amended to read:

24 **"19-13-805. Reinstatement upon termination of benefit.** (1) (a) ~~An inactive~~ Except as provided
 25 in subsection (1)(c), a member whose disability retirement benefit is canceled as provided in 19-13-804
 26 must be reinstated to the position held by the member immediately before the member's retirement or to
 27 a position in ~~the same classification~~ a comparable pay and benefit category with duties within the member's
 28 capacity if an appropriate vacancy exists within the member's fire department. The board shall advise the
 29 employer that the disability retirement benefit has been canceled and that the inactive member is eligible
 30 for reinstatement to duty. The fact that the member was retired for disability may not prejudice any right

1 to reinstatement to duty that the inactive member may have or claim to have.

2 (b) If an appropriate vacancy does not exist within an inactive member's fire department when the
3 member's disability benefit is canceled under 19-13-804, the member's benefit must be reinstated until a
4 vacancy occurs.

5 (c) This section does not affect any requirement that the former employee meet or be able to meet
6 professional certification and licensing standards unrelated to the disability and necessary for reinstatement.

7 (2) The city may request a medical or psychological review as to the ability of the member to return
8 to work as a firefighter. If the board's findings are upheld, the city shall pay the costs of the review.

9 (3) If the inactive member again becomes an active member by returning to active work for an
10 employer within 30 days following receipt of notice under 19-13-804, the member is considered to have
11 been continuously employed during the term of the member's disability. If the inactive member fails to
12 become an active member by returning to active work for an employer within 30 days following receipt of
13 this notice, the member's termination of employment is considered to have occurred as of the member's
14 disability retirement date and the retirement benefit, if any, to which the member becomes entitled on the
15 member's service retirement must be determined accordingly."

16

17 **Section 37.** Section 19-17-102, MCA, is amended to read:

18 **"19-17-102. Definitions.** Unless the context requires otherwise, the following definitions apply
19 in this chapter:

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

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

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

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

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

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

29 (7) "Disability" or "permanent total disability" ~~has the meaning~~ means permanent total disability
30 as defined in 39-71-116.

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

2 (9) "Fire company" means a fire company organized in an unincorporated area, town, or village in
3 accordance with 7-33-2311.

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

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

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

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

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

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

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

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

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

21

22 **NEW SECTION. Section 38. Repealer.** Sections 19-3-903 and 19-3-1006, MCA, are repealed.

23

24 **NEW SECTION. Section 39. Codification instruction.** (1) [Section 1] is intended to be codified as
25 an integral part of Title 19, chapter 2, part 10, and the provisions of Title 19, chapter 2, part 10, apply to
26 [section 1].

27 (2) [Section 2] is intended to be codified as an integral part of Title 19, chapter 8, part 9, and the
28 provisions of Title 19, chapter 8, part 9, apply to [section 2].

29 (3) [Section 3] is intended to be codified as an integral part of Title 19, chapter 2, part 9, and the
30 provisions of Title 19, chapter 2, part 9, apply to [section 3].

1 **NEW SECTION.** **Section 40. Retroactive applicability.** [Section 15] applies retroactively, within
2 the meaning of 1-2-109, to the period beginning January 1, 1995.

3

4 **NEW SECTION.** **Section 41. Effective date.** [This act] is effective on passage and approval.

5

-END-

APPROVED BY COM ON
STATE ADMINISTRATION

1 SENATE BILL NO. 124

2 INTRODUCED BY CHRISTIAENS

3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS ADMINISTERED BY THE
6 PUBLIC EMPLOYEES' RETIREMENT BOARD; PROVIDING THAT FEDERAL TAX LAWS GOVERNING
7 QUALIFICATION OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEMS SUPERSEDE CONFLICTING STATE
8 STATUTES; GIVING THE BOARD RULEMAKING AUTHORITY; DEFINING "STATUTORY BENEFICIARY" AND
9 "TERMINATION OF EMPLOYMENT" OR "TERMINATION OF SERVICE"; ALLOWING MEMBERS OF THE
10 GAME WARDENS' RETIREMENT SYSTEM TO QUALIFY PERIODS OF ABSENCE FROM COVERED
11 EMPLOYMENT BECAUSE OF SERVICE-CONNECTED INJURY OR ILLNESS; CLARIFYING CERTAIN SERVICE
12 CREDIT PROVISIONS; ALLOWING MAILINGS FOR CERTAIN NONPROFIT ORGANIZATIONS; CLARIFYING
13 CERTAIN DEFINITIONS; PROVIDING THAT FAMILY LAW ORDERS MAY NOT BE ENTERED UNLESS
14 CERTAIN PROVISIONS ARE APPROVED BY THE BOARD; REVISING CERTAIN OPTIONAL MEMBERSHIP
15 PROVISIONS; REVISING PROVISIONS RELATED TO THE TRANSFER OF SERVICE FROM THE TEACHERS'
16 RETIREMENT SYSTEM; CLARIFYING BENEFIT COMMENCEMENT DATES FOR ALL SYSTEMS; ALLOWING
17 CANCELLATION OF DISABILITY BENEFITS AND AN EXCEPTION TO REINSTATEMENT PROVISIONS;
18 REVISING CERTAIN PROVISIONS RELATED TO BENEFICIARY DESIGNATION AND SURVIVOR BENEFIT
19 OPTIONS; AMENDING SECTIONS 2-6-109, 19-2-303, 19-2-701, 19-2-702, 19-2-704, 19-2-801, 19-2-802,
20 19-2-907, 19-3-401, 19-3-412, 19-3-504, 19-3-511, 19-3-513, 19-3-1015, 19-3-1104, 19-3-1601,
21 19-5-103, 19-5-601, 19-5-801, 19-6-501, 19-6-612, 19-7-501, 19-7-612, 19-7-708, 19-8-601, 19-8-712,
22 19-8-1101, 19-9-801, 19-9-904, 19-9-905, 19-13-701, 19-13-804, 19-13-805, AND 19-17-102, MCA;
23 REPEALING SECTIONS 19-3-903 AND 19-3-1006, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
24 DATE AND A RETROACTIVE APPLICABILITY DATE."

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE
REPRINTED. PLEASE REFER TO INTRODUCED COPY
(WHITE) FOR COMPLETE TEXT.**

SENATE BILL NO. 124

INTRODUCED BY CHRISTIAENS

BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS ADMINISTERED BY THE PUBLIC EMPLOYEES' RETIREMENT BOARD; PROVIDING THAT FEDERAL TAX LAWS GOVERNING QUALIFICATION OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEMS SUPERSEDE CONFLICTING STATE STATUTES; GIVING THE BOARD RULEMAKING AUTHORITY; DEFINING "STATUTORY BENEFICIARY" AND "TERMINATION OF EMPLOYMENT" OR "TERMINATION OF SERVICE"; ALLOWING MEMBERS OF THE GAME WARDENS' RETIREMENT SYSTEM TO QUALIFY PERIODS OF ABSENCE FROM COVERED EMPLOYMENT BECAUSE OF SERVICE-CONNECTED INJURY OR ILLNESS; CLARIFYING CERTAIN SERVICE CREDIT PROVISIONS; ALLOWING MAILINGS FOR CERTAIN NONPROFIT ORGANIZATIONS; CLARIFYING CERTAIN DEFINITIONS; PROVIDING THAT FAMILY LAW ORDERS MAY NOT BE ENTERED UNLESS CERTAIN PROVISIONS ARE APPROVED BY THE BOARD; REVISING CERTAIN OPTIONAL MEMBERSHIP PROVISIONS; REVISING PROVISIONS RELATED TO THE TRANSFER OF SERVICE FROM THE TEACHERS' RETIREMENT SYSTEM; CLARIFYING BENEFIT COMMENCEMENT DATES FOR ALL SYSTEMS; ALLOWING CANCELLATION OF DISABILITY BENEFITS AND AN EXCEPTION TO REINSTATEMENT PROVISIONS; REVISING CERTAIN PROVISIONS RELATED TO BENEFICIARY DESIGNATION AND SURVIVOR BENEFIT OPTIONS; AMENDING SECTIONS 2-6-109, 19-2-303, 19-2-701, 19-2-702, 19-2-704, 19-2-801, 19-2-802,

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO INTRODUCED COPY (WHITE) FOR COMPLETE TEXT.

1 SENATE BILL NO. 124

2 INTRODUCED BY CHRISTIAENS

3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS ADMINISTERED BY THE
6 PUBLIC EMPLOYEES' RETIREMENT BOARD; PROVIDING THAT FEDERAL TAX LAWS GOVERNING
7 QUALIFICATION OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEMS SUPERSEDE CONFLICTING STATE
8 STATUTES; GIVING THE BOARD RULEMAKING AUTHORITY; DEFINING "STATUTORY BENEFICIARY" AND
9 "TERMINATION OF EMPLOYMENT" OR "TERMINATION OF SERVICE"; ALLOWING MEMBERS OF THE
10 GAME WARDENS' RETIREMENT SYSTEM TO QUALIFY PERIODS OF ABSENCE FROM COVERED
11 EMPLOYMENT BECAUSE OF SERVICE-CONNECTED INJURY OR ILLNESS; CLARIFYING CERTAIN SERVICE
12 CREDIT PROVISIONS; ALLOWING MAILINGS FOR CERTAIN NONPROFIT ORGANIZATIONS; CLARIFYING
13 CERTAIN DEFINITIONS; ~~PROVIDING THAT~~ REVISING CERTAIN PROVISIONS RELATED TO FAMILY LAW
14 ~~ORDERS MAY NOT BE ENTERED UNLESS CERTAIN PROVISIONS ARE APPROVED BY THE BOARD;~~
15 REVISING CERTAIN OPTIONAL MEMBERSHIP PROVISIONS; REVISING PROVISIONS RELATED TO THE
16 TRANSFER OF SERVICE FROM THE TEACHERS' RETIREMENT SYSTEM; CLARIFYING BENEFIT
17 COMMENCEMENT DATES FOR ALL SYSTEMS; ALLOWING CANCELLATION OF DISABILITY BENEFITS
18 AND AN EXCEPTION TO REINSTATEMENT PROVISIONS; REVISING CERTAIN PROVISIONS RELATED TO
19 BENEFICIARY DESIGNATION AND SURVIVOR BENEFIT OPTIONS; AMENDING SECTIONS 2-6-109,
20 19-2-303, 19-2-701, 19-2-702, 19-2-704, 19-2-801, 19-2-802, 19-2-907, 19-3-401, 19-3-412, 19-3-504,
21 19-3-511, 19-3-513, 19-3-1015, 19-3-1104, 19-3-1601, 19-5-103, 19-5-601, 19-5-801, 19-6-501,
22 19-6-612, 19-7-501, 19-7-612, 19-7-708, 19-7-801, 19-8-601, 19-8-712, 19-8-1101, 19-9-801,
23 19-9-904, 19-9-905, 19-13-701, 19-13-804, 19-13-805, AND 19-17-102, MCA; REPEALING SECTIONS
24 19-3-903 AND 19-3-1006, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A
25 RETROACTIVE APPLICABILITY DATE."

26
27 STATEMENT OF INTENT

28 A statement of intent is required for this bill because [sections 1 and 3] give the public employees'
29 retirement board authority to adopt administrative rules.

30 A fundamental purpose of the public employee retirement systems is to provide members with a

1 federal income tax-deferred retirement plan. To qualify for federally deferred income tax status, each
2 retirement plan must conform with the requirements of section 401 of the Internal Revenue Code, which
3 may be amended from time to time.

4 It is the intent of the legislature that Montana statutory provisions in conflict with section 401 of
5 the Internal Revenue Code and related federal regulations and that would result in a retirement plan being
6 disqualified are ineffective or must be interpreted so that the retirement plans may retain tax-deferred
7 status.

8 It is the further intent of the legislature to clarify when a member of a retirement system becomes
9 a retiree. The retirement date is the date on which the member accepts the first benefit payment. An
10 inactive member who has not met all eligibility requirements for retirement, including proper submission of
11 a written application for retirement benefits, should not be considered a "retiree" during the period of time
12 before the member actually began receiving benefit payments, even though the member may later receive
13 payments retroactive to an earlier commencement date. Because retirees may not earn membership service
14 or purchase service credits in the retirement systems and active and inactive members may not receive
15 benefit adjustments granted to current retirees, it is imperative to the actuarial soundness of the systems
16 to clarify the retirement date of each member.

17

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

19

20 **NEW SECTION. Section 1. Retaining qualified plan status -- board rulemaking authority.** If a
21 statutory provision affecting a retirement plan administered by the board conflicts with a qualification
22 requirement in section 401 of the Internal Revenue Code and consequent federal regulations, the provision
23 is either ineffective or must be interpreted to conform with the federal qualification requirements and allow
24 the system to retain tax-deferred status. The board may adopt rules to implement this section.

25

26 **NEW SECTION. Section 2. Absence due to injury or illness.** (1) Time, not to exceed 5 years,
27 during which a member is absent because of an injury or illness is considered membership service if, within
28 1 year after the end of the absence, the injury or illness is determined to have arisen out of and in the
29 course of the member's employment. However, the member may not earn service credits for the absence
30 unless the member complies with subsections (2) through (4), in which case the absence is considered as

1 time spent in service for both service credits and membership service.

2 (2) (a) A member absent because of an employment-related injury entitling the member to workers'
3 compensation payments may, upon the member's return to service, contribute an amount equal to the
4 contributions that the member would have made on the basis of the member's compensation at the
5 commencement of the member's absence plus regular interest accruing from 1 year from the date after the
6 member returns to covered service to the date the member contributes for the period of absence.

7 (b) Whenever a member elects to contribute under subsection (2)(a), the employer shall contribute
8 employer contributions for the period of absence based on the salary as calculated in subsection (2)(a) and
9 may pay interest on the employer's contribution calculated in the same manner as interest on the
10 employee's contribution under subsection (2)(a). An employer electing to make an interest payment shall
11 do so for all employees similarly situated. If the employer elects not to pay the interest costs, this amount
12 must be paid by the employee.

13 (3) At some time after returning to covered service, a member shall file with the board a written
14 notice of the member's intent to pay the contributions under subsection (2).

15 (4) Payment of the employee's contributions due because of the period of absence may be made
16 in one sum at the time of filing the notice or on an installment basis before termination of covered service.

17 (5) A member loses the right to contribute for an absence under this section if all of the member's
18 accumulated contributions are refunded pursuant to 19-2-602 or for the period of time during which
19 benefits are received if the member retires during the absence.

20

21 **NEW SECTION. Section 3. Time of commencement of benefit.** (1) (a) The board shall grant a
22 benefit to any member, or the member's statutory or designated beneficiary, who has fulfilled all eligibility
23 requirements, terminated covered service, and filed the appropriate written application.

24 (b) A member may apply for retirement benefits before terminating covered service, but
25 commencement of the benefits must be as provided in this section.

26 (2) (a) Except as provided in subsection (2)(b), the service retirement benefit may commence on
27 the first day of the month following the eligible member's last day of membership service or, if requested
28 by the inactive member in writing, on the first day of a later month following receipt of the written
29 application.

30 (b) If an elected official's term of office expires before the 15th day of the month, the official may

1 elect that service retirement benefits commence on the first day of the month following the official's last
2 full month in office. An official electing this option may not earn membership service, service credit, or
3 compensation for purposes of calculating final average salary under the retirement system in the partial
4 month ending the official's term, and compensation earned in that partial month is not subject to employer
5 or employee contributions.

6 (3) The disability retirement benefit payable to a member must commence on the day following the
7 member's termination from service.

8 (4) Monthly survivorship benefits must commence on the day following the death of the member.

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

11

12 **Section 4.** Section 2-6-109, MCA, is amended to read:

13 **"2-6-109. Prohibition on distribution or sale of mailing lists -- exceptions -- penalty.** (1) Except as
14 provided in subsections (3) through (8), in order to protect the privacy of those who deal with state and
15 local government:

16 (a) an agency may not distribute or sell for use as a mailing list any list of persons without first
17 securing the permission of those on the list; and

18 (b) a list of persons prepared by the agency may not be used as a mailing list except by the agency
19 or another agency without first securing the permission of those on the list.

20 (2) As used in this section, "agency" means any board, bureau, commission, department, division,
21 authority, or officer of the state or a local government.

22 (3) Except as provided in 30-9-403, this section does not prevent an individual from compiling a
23 mailing list by examination of original documents or applications that are otherwise open to public
24 inspection.

25 (4) This section does not apply to the lists of registered electors and the new voter lists provided
26 for in 13-2-115 and 13-38-103, to lists of the names of employees governed by Title 39, chapter 31, or
27 to lists of persons holding driver's licenses provided for under 61-5-126.

28 (5) This section does not prevent an agency from providing a list to persons providing prelicensing
29 or continuing educational courses subject to Title 20, chapter 30, or specifically exempted from that
30 chapter as provided in 20-30-102, or subject to Title 33, chapter 17.

1 (6) This section does not apply to the right of access either by Montana law enforcement agencies
2 or, by purchase or otherwise, of public records dealing with motor vehicle registration.

3 (7) This section does not apply to a corporate information list developed by the secretary of state
4 containing the name, address, registered agent, officers, and directors of business, nonprofit, religious,
5 professional, and close corporations authorized to do business in this state.

6 (8) This section does not apply to the use by the public employees' retirement board of a mailing
7 list of board-administered retirement system participants to send materials on behalf of a ~~third party~~
8 RETIREE ORGANIZATION FORMED FOR BOARD-ADMINISTERED RETIREMENT SYSTEM PARTICIPANTS
9 AND with tax-exempt status under section ~~501(c)(3)~~ 501(c)(4) of the Internal Revenue Code, as amended,
10 for a fee determined by rules of the board, provided that the mailing list is not released to the ~~third party~~
11 ORGANIZATION.

12 (9) A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor."
13

14 **Section 5.** Section 19-2-303, MCA, is amended to read:

15 **"19-2-303. Definitions.** Unless the context requires otherwise, for each of the retirement systems
16 subject to this chapter, the following definitions apply:

17 (1) "Accumulated contributions" means the sum of all the regular and any additional contributions
18 made by a member in a system, together with the regular interest on the contributions.

19 (2) "Active member" means a member who is ~~an a paid~~ a paid employee of an employer ~~and who is~~
20 ~~making the required contributions to the system based on the member's compensation paid by the~~
21 employer, and is properly reported to the division for the most current reporting period.

22 (3) "Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory
23 manner to represent the present value of the benefits to be derived from the additional service to be
24 credited based on the most recent actuarial valuation for the system and the age, years until retirement,
25 and current salary of the member.

26 (4) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the
27 1971 Group Annuity Mortality Table, with ages set back 4 years and an interest rate of 8% compounded
28 annually.

29 (5) "Actuarial liabilities" means the excess of the present value of all benefits payable under a
30 retirement system over the present value of future normal costs in that retirement system.

- 1 (6) "Actuary" means the actuary retained by the board in accordance with 19-2-405.
- 2 (7) "Additional contributions" means contributions made by a member to purchase various types
3 of optional service credit as allowed by the applicable retirement system.
- 4 (8) "Annuity" means equal and fixed payments for life that are the actuarial equivalent of a
5 lump-sum payment under a retirement system and as such are not benefits paid by a retirement system and
6 are not subject to periodic or one-time increases.
- 7 (9) "Benefit" means the service or disability retirement or survivorship benefit payment provided
8 by a retirement system.
- 9 (10) "Board" means the public employees' retirement board provided for in 2-15-1009.
- 10 (11) "Contingent annuitant" means a person designated to receive a continuing ~~annuity~~ monthly
11 benefit after the death of a retired member.
- 12 (12) "Credited service" or "service credit" means the periods of time for which the required
13 contributions have been made to a retirement system and that are used to calculate service or disability
14 retirement or survivorship benefits under a retirement system.
- 15 (13) "Department" means the department of administration.
- 16 (14) "Designated beneficiary" means the person designated by a member or payment recipient to
17 receive any survivorship benefits or lump-sum payments upon the death of the member or payment
18 recipient, including annuities derived from the benefits or payments.
- 19 (15) "Disability" means a total inability of the member to perform the member's duties by reason
20 of physical or mental incapacity. The disability must be incurred while the member is an active member and
21 must be one of permanent duration or of extended and uncertain duration, as determined by the board on
22 the basis of competent medical opinion.
- 23 (16) "Division" means the public employees' retirement division of the department of administration.
- 24 (17) "Employee" means a person who is employed by an employer in any capacity and whose salary
25 is paid by the employer.
- 26 (18) "Employer" means a governmental entity participating in a retirement system enumerated in
27 19-2-302 on behalf of its eligible employees.
- 28 (19) "Essential elements of the position" means fundamental job duties. An element may be
29 considered essential because of but not limited to the following factors:
- 30 (a) the position exists to perform the element;

1 (b) there are a limited number of employees to perform the element; or

2 (c) the element is highly specialized.

3 (20) "Fiscal year" means any year commencing with July 1 and ending the following June 30.

4 (21) "Inactive member" means a member who ~~has terminated service with an employer and has not~~
5 ~~withdrawn the member's accumulated contributions from the retirement system~~ is not an active or retired
6 member.

7 (22) "Member" means any person with accumulated contributions and service credited with a
8 retirement system or receiving a retirement benefit on account of the person's previous service credited
9 in a retirement system.

10 (23) "Membership service" or "years of service" means the periods of service that are used to
11 determine eligibility for retirement or other benefits.

12 (24) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost
13 method required to fund accruing benefits for members of a retirement system during any year in the future.
14 Normal cost does not include any portion of the supplemental costs of a retirement system.

15 (25) "Pension" means benefit payments for life derived from contributions to a system made from
16 state- or employer-controlled funds.

17 (26) "Pension trust fund" means a fund established to hold the contributions, income, and assets
18 of a retirement system in public trust.

19 (27) "Regular contributions" means contributions required from members under a retirement system.

20 (28) "Regular interest" means interest at the rate set from time to time by the board.

21 (29) "Retirement" or "retired" means the status of a member who has terminated from service ~~with~~
22 and has received and accepted a retirement benefit under from a retirement system.

23 (30) "Retirement benefit" means the periodic benefit payable ~~following as a result of~~ service, early,
24 or disability retirement under a retirement system. An annuity is not a retirement benefit.

25 (31) "Retirement system" or "system" means one of the public employee retirement systems
26 enumerated in 19-2-302.

27 (32) "Service" means employment of an employee in a position covered by a retirement system.

28 (33) "Statutory beneficiary" means the surviving spouse or dependent child or children of a member
29 of the highway patrol officers', municipal police officers' or firefighters' unified retirement systems who are
30 statutorily designated to receive benefits upon the death of the member.

1 ~~(34)~~ "Supplemental cost" means an element of the total actuarial cost of a retirement system arising
 2 from benefits payable for service performed prior to the inception of the retirement system or prior to the
 3 date of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure to fund or
 4 otherwise recognize normal cost accruals or interest on supplemental costs. These costs are included in
 5 the unfunded actuarial liabilities of the retirement system.

6 ~~(34)~~~~(35)~~ "Survivorship benefit" means payments for life to the statutory or designated beneficiary
 7 of a deceased member who died while in service under a retirement system.

8 ~~(35)~~~~(36)~~ "Termination of employment" or "termination of service" means that the member has
 9 severed the employment relationship with the employer and has been paid all compensation due upon
 10 termination of employment, including but not limited to payment of accrued annual leave credits, as
 11 provided in 2-18-617, and payment of accrued sick leave credits, as provided in 2-18-618. For purposes
 12 of this subsection, compensation as a result of legal action, court order, appeal, or settlement to which the
 13 board was not party is not a payment due upon termination.

14 ~~(37)~~ "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a retirement
 15 system's actuarial liabilities at any given point in time over the value of its cash and investments on that
 16 same date.

17 ~~(36)~~~~(38)~~ "Vested member" or "vested" means a member or the status of a member who has
 18 attained the minimum membership service requirements to be eligible for retirement benefits under a
 19 retirement system.

20 ~~(37)~~~~(39)~~ "Written application" means a written instrument duly executed and filed with the board
 21 and containing all information required by the board, including such proofs of age as the board considers
 22 necessary."
 23

24 **Section 6.** Section 19-2-701, MCA, is amended to read:

25 "**19-2-701. Service credit.** Subject to the provisions of chapters 3, 5 through 9, and 13 ~~of this~~
 26 ~~title~~, a member must receive 1 month of service credit for each full month of service under rules adopted
 27 by the board. Service credits must be used in calculating a retirement or survivorship benefit. A retired
 28 member is not eligible to earn service credit."

29

30 **Section 7.** Section 19-2-702, MCA, is amended to read:

1 **"19-2-702. Membership service.** A member who is not retired must receive membership service
 2 for all periods of service, regardless of hours worked or compensation received during that service. The
 3 service must be used to determine:

4 (1) whether a member is vested;

5 (2) when the member is eligible for early or normal service retirement or disability retirement; or

6 (3) the eligibility of beneficiaries for survivorship benefits."
 7

8 **Section 8.** Section 19-2-704, MCA, is amended to read:

9 **"19-2-704. Purchasing service credits allowed.** (1) Subject to the rules promulgated by the board,
 10 an eligible member may elect to contribute amounts in addition to the mandatory employee contributions
 11 required by the retirement system in which the member participates for the purpose of purchasing service
 12 credits as provided by the statutes governing the retirement system.

13 (2) A member eligible to qualify service under the provisions of 19-3-509, 19-3-511, 19-6-802,
 14 19-7-802, 19-8-902, 19-9-405, and 19-13-404 may, at any time prior to retirement, elect to transfer all
 15 or a portion of the member's accumulated contributions on deposit in a pension trust fund from which
 16 service is being transferred to the pension trust fund of another plan in which service is being credited. The
 17 transfer of contributions may include both taxed contributions and tax-deferred contributions and interest.
 18 However, if less than all of the accumulated contributions on deposit in a pension trust fund is being
 19 transferred, the transfer of taxed and tax-deferred amounts must be made on a proportionate basis, with
 20 the remainder refunded to the member. The transferring agency shall identify at the time of the transfer the
 21 taxed and tax-deferred amounts being transferred.

22 (3) Subject to any statutory provision establishing stricter limitations, only active or vested inactive
 23 members are eligible to purchase, qualify, or transfer service credits, membership service, or contributions."
 24

25 **Section 9.** Section 19-2-801, MCA, is amended to read:

26 **"19-2-801. Designation of beneficiary.** In the absence of any ~~statutorily designated persons~~
 27 statutory beneficiaries, ~~the designated beneficiaries of a member~~ are the natural persons, ~~charitable~~
 28 ~~organizations, or trusts for the benefit of natural living persons~~ that the member or payment recipient
 29 designates on the membership card or other form provided by the division. Unless otherwise provided by
 30 statute, a member or payment recipient may revoke the designation and name different designated

1 beneficiaries by filing with the board a new membership card ~~with the board~~ or other form provided by the
 2 division."

3

4 **Section 10.** Section 19-2-802, MCA, is amended to read:

5 **"19-2-802. Effect of no designation or no surviving designated beneficiary.** (1) If a living statutory
 6 or designated beneficiary, ~~existing charitable organization, or natural living person who is the beneficiary~~
 7 ~~of a trust is not designated~~ does not survive the member or payment recipient, the estate of the member
 8 or payment recipient is the designated beneficiary entitled to any lump-sum payment or retirement benefit
 9 accrued but not received prior to the statutory or designated beneficiary's death. If the estate would not
 10 be probated but for the amount due from the retirement system, all of the amount due, ~~including retirement~~
 11 ~~benefits accrued but not received prior to death~~, must be paid directly, without probate, to the surviving
 12 next of kin of the deceased or the guardians of the survivor's estate, share and share alike.

13 (2) Payment must be made in the same order in which the following groups are listed:

- 14 (a) husband or wife;
 15 (b) children;
 16 (c) father and mother;
 17 (d) grandchildren;
 18 (e) brothers and sisters; or
 19 (f) nieces and nephews.

20 (3) A payment may not be made to a person included in any of the groups listed in subsection (2)
 21 if at the date of payment there is a living person in any of the groups preceding the group of which the
 22 person is a member, as listed. Payment must be made upon receipt from the person of an affidavit, upon
 23 a form supplied by the retirement division, that there are no living individuals in the groups preceding the
 24 group of which the person is a member and that the estate of the deceased will not be probated.

25 (4) The payment must be in full and complete discharge and acquittance of the board and system
 26 on account of the member's or payment recipient's death."

27

28 **Section 11.** Section 19-2-907, MCA, is amended to read:

29 **"19-2-907. Alternate payees -- family law orders.** (1) A participant in a retirement system may
 30 have the participant's rights modified or recognized by a family law order.

1 (2) For purposes of this section:

2 (a) "participant" means a member or an actual or potential beneficiary, survivor, or contingent
3 annuitant of a retirement system designated pursuant to Title 19, chapter 3, 5, 6, 7, 8, 9, 13, or 17; and

4 (b) "family law order" means a judgment, decree, or order of a court of competent jurisdiction
5 under Title 40 concerning child support, parental support, spousal maintenance, or marital property rights
6 that includes a transfer of all or a portion of a participant's payment rights in a retirement system to an
7 alternate payee in compliance with this section.

8 (3) A family law order must identify an alternate payee by full name, current address, and social
9 security number. An alternate payee's rights and interests granted in compliance with this section are not
10 subject to assignment, execution, garnishment, attachment, or other process. An alternate payee's rights
11 or interests may be modified only by a family law order amending the family law order that established the
12 right or interest.

13 (4) A family law order may not require:

14 (a) a type or form of benefit, option, or payment not available to the affected participant under the
15 appropriate retirement system; or

16 (b) an amount or duration of payment greater than that available to a participant under the
17 appropriate retirement system.

18 (5) A family law order may only provide for payment to an alternate payee as follows:

19 (a) Service retirement benefit payments or withdrawals of member contributions may be
20 apportioned by directing payment of a percentage of the amount payable or payment of a fixed amount of
21 no more than the amount payable to the participant.

22 (b) The maximum amount of disability or survivorship benefits that may be apportioned to alternate
23 payees is the monthly benefit amount that would have been payable on the date of termination of service
24 if the member had retired without disability or death. Conversion of a disability retirement to a service
25 retirement pursuant to 19-2-406(4), 19-3-1015(2), 19-6-612(2), or 19-8-712(2) does not increase the
26 maximum monthly amount that may be apportioned to an alternate payee.

27 (c) Retirement benefit adjustments for which a participant is eligible after retirement may be
28 apportioned only if existing benefit payments are apportioned. The adjustments must be apportioned in the
29 same ratio as existing benefit payments.

30 (d) Payments must be limited to the life of the appropriate participant. The duration of payments

1 to an alternate payee may be further limited only to a specified maximum time, the life of the alternate
 2 payee, or the life of a specified participant. Payments to an alternate payee may be limited to a specific
 3 amount per month if the number of payments is specified. The alternate payee's rights and interests survive
 4 the alternate payee's death and may be transferred by inheritance.

5 (e) The participant may be required to choose a specified form of benefit payment or designate a
 6 beneficiary or contingent annuitant if the retirement system allows for that option.

7 (6) The board may assess a participant or an alternate payee for all costs of reviewing and
 8 administering a family law order, including reasonable attorney fees. The board may adopt rules to
 9 implement this section.

10 ~~(7) A court may not enter a family law order unless terms of the proposed order that relate to~~
 11 ~~payments by the retirement system have been approved by the board~~ EACH FAMILY LAW ORDER
 12 ESTABLISHING A FINAL OBLIGATION CONCERNING PAYMENTS BY THE RETIREMENT SYSTEM MUST
 13 CONTAIN A STATEMENT THAT THE ORDER IS SUBJECT TO REVIEW AND APPROVAL BY THE BOARD."

14

15 **Section 12.** Section 19-3-401, MCA, is amended to read:

16 **"19-3-401. Membership -- inactive vested members -- inactive nonvested members.** (1) Except
 17 as otherwise provided in this chapter, all ~~eligible~~ employees shall become members on the first day of
 18 ~~covered employment service.~~ Each eligible employee employer shall file with the board information affecting
 19 ~~the employee's~~ their employees' status as a ~~member~~ members of the retirement system as the board may
 20 require.

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

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

28 (4) Every employee who reenters service shall become a member unless the employee has had an
 29 original election of exemption from membership and the employee's service was not interrupted by a break
 30 of more than 1 month. A seasonal employee who has had an original election of exemption from

1 membership is not subject to the requirement regarding the break in service while continuing in the
 2 employee's original employment and employed on a seasonal basis, but upon termination of employment
 3 to accept new employment or absence of more than 1 month in returning to original employment in any
 4 ensuing season, the seasonal employee shall become a member of the retirement system upon reentry.

5 (5) Time during which an employee of a school district is absent from service during official
 6 vacation is counted as service in determining eligibility for membership under this chapter."

7

8 **Section 13.** Section 19-3-412, MCA, is amended to read:

9 "**19-3-412. Optional membership.** (1) The following employees in covered employment may
 10 become members of the retirement system at their option at any time during their employment in a covered
 11 position by filing a membership card with the board:

12 ~~(1)(a)~~ (a) elected officials of the state or local governments who are paid on a salary or wage basis
 13 rather than on a per diem or other reimbursement basis;

14 ~~(2)(b)~~ (b) part-time employees serving in employment that does not exceed ~~the equivalent of 120~~
 15 working days a total of 960 hours of employment covered by this chapter in any fiscal year;

16 ~~(3)(c)~~ (c) employees directly appointed by the governor;

17 ~~(4)(d)~~ (d) employees working 6 months or less for the legislative branch to perform work related to
 18 the legislative session;

19 ~~(5)(e)~~ (e) the chief administrative officer of any city or county;

20 ~~(6)(f)~~ (f) employees of county hospitals or rest homes in the sixth- and seventh-class counties.

21 (2) If an employee declines optional membership, the employee shall execute a statement waiving
 22 membership and the employer shall retain the statement."

23

24 **Section 14.** Section 19-3-504, MCA, is amended to read:

25 "**19-3-504. Absence due to illness or injury.** (1) Time, not to exceed 5 years, during which a
 26 member is absent from service ~~by reason~~ because of injury or illness ~~determined within 1 year after the end~~
 27 ~~of the absence as arising out of and in the course of the member's employment~~ is considered membership
 28 service if, within 1 year after the end of the absence, the injury or illness is determined to have arisen out
 29 of and in the course of the member's employment. However, the member may not earn service credits for
 30 this period unless the member complies with subsections (2) through (4), in which case the absence is

1 considered as time spent in service for both service credits and membership ~~credits~~ service.

2 (2) (a) ~~Any~~ A member absent because of an employment-related injury ~~that entitles~~ entitling the
3 member to workers' compensation payments may, upon the member's return to service, contribute to the
4 retirement system, ~~upon the member's return to service~~, an amount equal to the contributions that would
5 have been made by the member to the system on the basis of the member's compensation at the
6 commencement of the member's absence plus regular interest accruing from 1 year from the date after the
7 member returns to covered service to the date the member contributes for the period of absence.

8 (b) Whenever a member elects to contribute under subsection (2)(a), the employer shall contribute
9 ~~an amount equal to what its employer contributions would have been had the member not been absent from~~
10 ~~service. In addition, the employer may contribute an amount equal to the interest accruing~~ for the period
11 of absence based on the salary as calculated in subsection (2)(a) and may pay interest on the employer's
12 contribution calculated in the same manner as interest on the employee's contribution under subsection
13 (2)(a). An employer electing to make ~~a contribution~~ an interest payment shall do so for all employees
14 similarly situated. If the employer elects not to pay the interest costs, this amount must be paid by the
15 employee.

16 (3) At some time after returning to covered service, a member shall file with the board a written
17 notice of the member's intent to pay the contributions under subsection (2).

18 (4) Payment of the employee's contributions that are due because of the period of absence may
19 be made in one sum at the time of filing the notice or on an installment basis before termination of covered
20 service.

21 (5) A member loses the right to contribute for an absence under this section if all of the member's
22 accumulated contributions are refunded pursuant to 19-2-602 or for the period of time during which
23 retirement benefits are received if the member retires during the absence."

24

25 **Section 15.** Section 19-3-511, MCA, is amended to read:

26 "**19-3-511. Transfer of service credits and contributions from teachers' retirement system.** (1) An
27 active member may at any time before retirement make a written election with the board to qualify in the
28 public employees' retirement system all of the member's service in the teachers' retirement system for
29 which the member either has received or is eligible to receive a refund.

30 (2) The amount that must be paid or transferred to the retirement system to qualify this service

1 under this section is the sum of subsections (2)(a) and ~~(3) (2)(b)~~, as follows:

2 ~~(2) In addition to the amounts directly paid or transferred by the member under subsection (3), the~~

3 (a) The teachers' retirement system shall transfer to the public employees' retirement system an
4 amount equal to 72% of the amount payable by the member.

5 ~~(3)(b)~~ The member shall pay either directly or by transferring contributions on account with the
6 teachers' retirement system an amount equal to the member's accumulated contributions at the time that
7 active membership was terminated with the teachers' retirement system, plus accrued interest. Interest
8 must be calculated from the date of termination until payment is received by the public employees'
9 retirement system, based on the interest tables in use by the teachers' retirement system.

10 ~~(4)(3)~~ The amount of service credit granted in subsection (1) must be on a month-by-month basis.
11 Military service credit transferred from the teachers' retirement system must be included in the 5-year
12 maximum military service credit provided for in 19-3-503.

13 ~~(5)(4)~~ Subject to the provisions of 19-2-403, the board is the sole authority in determining the
14 amount of service credit qualified under this section and the amount paid to the retirement system under
15 ~~subsections~~ subsection (2) and (3).

16 ~~(6)(5)~~ If an active member who also has service credit in the teachers' retirement system dies
17 before the member qualifies this service in the public employees' retirement system and if the service
18 credits from both systems, when combined, entitle the member's designated beneficiary to a survivorship
19 benefit, the payment of the survivorship benefit is the liability of the public employees' retirement system.
20 Before payment of the survivorship benefit, the teachers' retirement board shall transfer to the public
21 employees' retirement system the contributions necessary to qualify this service in the public employees'
22 retirement system as provided in ~~subsections~~ subsection (2) and (3).

23 (6) If the board determines that a member was erroneously classified and reported to the teachers'
24 retirement system, the member's accumulated contributions and service, together with the employer
25 contributions plus interest, must be transferred to the public employees' retirement system. Employee and
26 employer contributions due as calculated under 19-3-315 and 19-3-316 are the liability of the employee
27 and the employing entity, respectively, where the error occurred. For the period of time that the employer
28 contributions are held by the teachers' retirement system, interest paid on employer contributions
29 transferred under this subsection must be calculated at the short-term investment pool rate earned by the
30 board of investments in the fiscal year preceding the transfer request."

1 **Section 16.** Section 19-3-513, MCA, is amended to read:

2 **"19-3-513. Election to purchase additional service.** (1) At any time before retirement, a person
3 who became a member of the retirement system before July 1, 1989, and who has 5 years or more of
4 membership service may make a written election with the board to purchase additional service credit for
5 the purpose of calculating the member's retirement benefit. Except as provided in subsection (3), the
6 member may purchase 1 year of additional service credit for each 5 years of membership service that the
7 member has qualified under the retirement system, up to a maximum of 5 years of additional service.

8 (2) For each year of service credit purchased under this section, a member shall ~~contribute~~ **make**
9 **additional contributions** to the pension trust fund **in** an amount equal to the member's compensation for
10 the 12-month period ~~immediately~~ **of full-time service most recently** preceding the date **on which** the member
11 elects to purchase the service multiplied by the combined employee and employer contribution rates
12 contained in 19-3-315 and 19-3-316. ~~Contributions~~ **Additional contributions** may be made in a lump-sum
13 payment or ~~by making additional contributions~~ in installments as agreed upon by the member and the board.
14 **Inactive members shall pay interest from the date of termination to the date of payment. Active members**
15 **shall pay interest from the date of contracting to the date of payment. The board shall set interest rates**
16 **and approve contracts.**

17 (3) (a) Except as provided in subsection (3)(b), after January 1, 1990, a member may elect to
18 qualify a combined total of 5 years of service under 19-3-503, 19-3-512, or this section.

19 (b) A member who has purchased service under 19-3-503 or 19-3-512 on or before January 1,
20 1990, and who elects to purchase service under this section shall receive credit for the full months of
21 service purchased on or before January 1, 1990.

22 (4) Service purchased under this section is not membership service and may not be used to qualify
23 a member for service retirement."
24

25 **Section 17.** Section 19-3-1015, MCA, is amended to read:

26 **"19-3-1015. Medical examination of disability retiree -- cancellation and reinstatement.** (1) The
27 board may, in its discretion, require a disabled member to undergo a medical examination. The examination
28 must be made by a physician or surgeon appointed by the board, at a place mutually agreed upon by the
29 retired member and the board. Upon the basis of the examination, the board shall determine whether the
30 disabled member is unable, by reason of physical or mental incapacity, to perform the essential elements

1 of either the position held by the member when the member retired or the position proposed to be assigned
 2 to the member. If the board determines the member is not incapacitated or if the member refuses to submit
 3 to a medical examination, the member's retirement benefit must be canceled.

4 (2) If the board determines that a disabled member should no longer be subject to medical review,
 5 the board may grant service retirement status to the member without recalculating the monthly benefit. The
 6 board shall notify the member in writing as to the change in status. If the disabled member disagrees with
 7 the board's determination, the member may request the board to reconsider its action. The request for
 8 reconsideration must be made in writing within 60 days after receipt of the notice of the status change.

9 (3) A (a) Except as provided in subsections (3)(b) and (3)(c), a member whose disability retirement
 10 benefit is canceled because the board has determined that the member is no longer incapacitated must be
 11 reinstated to the position held by the member immediately before the member's retirement or to a position
 12 in the same classification a comparable pay and benefit category with duties within the member's capacity
 13 if the member was an employee of the state or of the university. If the member was an employee of a
 14 contracting employer, the board shall notify the proper official of the contracting employer that the disability
 15 retirement benefit has been canceled and that the former employee is eligible for reinstatement to duty. The
 16 fact that the former employee was retired for disability may not prejudice any right to reinstatement to duty
 17 that the former employee may have or claim to have.

18 (b) A member who is employed by an employer terminates any right to reinstatement provided by
 19 this section.

20 (c) This section does not affect any requirement that the former employee meet or be able to meet
 21 professional certification and licensing standards unrelated to the disability and necessary for reinstatement
 22 to duty.

23 (4) If a member whose disability retirement benefit is canceled is not reemployed in a position
 24 subject to the retirement system, the member's service is considered, for the purposes of 19-2-602, to
 25 have been discontinued coincident with the commencement of the member's retirement benefit."
 26

27 **Section 18.** Section 19-3-1104, MCA, is amended to read:

28 **"19-3-1104. Cancellation of disability retirement benefit upon reemployment.** ~~Any~~ A person
 29 receiving a disability retirement benefit who becomes an employee is considered reinstated to service from
 30 retirement, and the person's disability retirement benefit ~~is~~ must be canceled."

1 **Section 19.** Section 19-3-1601, MCA, is amended to read:

2 **"19-3-1601. Eligibility for postretirement adjustment.** (1) Except as provided in subsection (2), a
3 benefit recipient is eligible to receive a postretirement adjustment as provided in 19-3-1603 if the person
4 is receiving a:

5 ~~(a) monthly service retirement benefit, and is 55 years of age or older on or before June 30 in the~~
6 ~~year that the postretirement adjustment is made; or~~

7 ~~(b) disability retirement benefit, or survivorship benefit.~~

8 (2) A benefit recipient is ineligible to receive a postretirement adjustment under subsection (1)
9 unless the recipient has been receiving a monthly service, disability, or survivorship benefit for at least 24
10 consecutive months on or before June 30 in the year the adjustment is made."

11

12 **Section 20.** Section 19-5-103, MCA, is amended to read:

13 **"19-5-103. Call of retired judge for duty.** (1) Every judge or justice who has voluntarily retired after
14 8 years of service ~~shall~~ must, if physically and mentally able, be subject to call for duty by the supreme
15 court or the chief justice to aid and assist the supreme court, any district court, or any water court under
16 directions as the supreme court may give, including the examination of the facts, cases, and authorities
17 cited, and the preparation of opinions for and on behalf of the supreme court, district court, or water court,
18 or to serve as water judge. The opinions, when and if and to the extent approved by the court, may by the
19 court be ordered to constitute the opinion of the court. The court and the retired judge or justice may,
20 subject to any rule that the supreme court may adopt, perform any ~~and all~~ duties preliminary to the final
21 disposition of cases that are not inconsistent with the constitution of the state.

22 (2) A retired judge or justice, when called to ~~service~~ duty, must be reimbursed for actual expenses,
23 if any, in responding to the call. In addition, for each day of ~~service~~ duty, a retired justice or judge is
24 entitled to receive compensation in an amount equal to one-twentieth of the monthly salary then currently
25 applicable to the judicial position in which the ~~service~~ duty is rendered minus an amount equal to
26 one-twentieth of the monthly retirement benefit that the retired justice or judge is receiving, if any, for each
27 day of ~~service~~ duty rendered."

28

29 **Section 21.** Section 19-5-601, MCA, is amended to read:

30 **"19-5-601. Disability retirement benefit.** In case of the disability of a member, a disability

1 retirement benefit must be granted the member in an amount actuarially equivalent to the service retirement
 2 benefit standing to the member's credit at the time of the member's disability retirement. If the disability
 3 is a direct result of any service ~~to~~ or duty for the Montana judiciary ~~in the line of duty~~, the member must
 4 ~~receive a~~ member's total benefit must equal ~~to~~ one-half of the member's final current salary or the benefit
 5 provided in 19-5-502, whichever is greater."

6

7 **Section 22.** Section 19-5-801, MCA, is amended to read:

8 "19-5-801. **Payments upon employment-related death.** If the board finds that a member died as
 9 a direct and proximate result of injury received in the course of the member's service or duty, a survivorship
 10 benefit must be paid to the member's designated beneficiary. The survivorship benefit is the greater of the
 11 actuarial equivalent of a member's service retirement benefit provided for in 19-5-502 standing to the
 12 member's credit on the date of death or of the contingent annuitant's benefit, if applicable. "

13

14 **Section 23.** Section 19-6-501, MCA, is amended to read:

15 "19-6-501. **Eligibility and application for service retirement benefit — commencement of benefit.**

16 (1) ~~(a)~~ A member first employed by the Montana highway patrol on or before July 1, 1985, is eligible to
 17 receive a service retirement benefit after completing 20 years or more of membership service and
 18 terminating service.

19 ~~(b)~~(2) A member first employed by the Montana highway patrol after July 1, 1985, is eligible to
 20 receive a service retirement benefit when the member has reached age 50, completed 20 years or more
 21 of membership service, and terminated service.

22 ~~(2) A member eligible to receive a retirement benefit, as provided in subsection (1), shall apply in~~
 23 ~~writing to the division.~~

24 ~~(3) (a) Except as provided in subsection (3)(b), the retirement benefit may commence on the first~~
 25 ~~day of the month following the member's last day of covered service or, if requested by the inactive~~
 26 ~~member in writing, on the first day of the month following receipt of the written application.~~

27 ~~(b) The retirement benefit for an eligible member who has terminated service must commence no~~
 28 ~~later than the first day of the month following the member's 60th birthday."~~

29

30 **Section 24.** Section 19-6-612, MCA, is amended to read:

1 **"19-6-612. Medical examination of disability retiree -- cancellation of benefit.** (1) The board may
2 require the recipient of a disability retirement benefit to undergo a medical examination. The examination
3 must be made by a physician or surgeon at the recipient's place of residence or at another place mutually
4 agreed on, at the board's expense. Upon the basis of the examination, the board shall determine whether
5 the recipient can perform the essential elements of the position held by the recipient when the recipient
6 retired. If the board determines that the recipient is not incapacitated, the recipient's disability retirement
7 benefit must be canceled when the recipient is offered a position under subsection (3) or when, if a position
8 is available, the recipient cannot be reinstated under subsection (3) for reasons unrelated to the disability.
9 If the recipient refuses to submit to a medical examination, the recipient's disability retirement benefit must
10 be canceled.

11 (2) If the board determines that a recipient of a disability retirement benefit should no longer be
12 subject to medical review, the board may grant a service retirement status to the recipient without
13 recalculating the recipient's monthly benefit. The board shall notify the recipient in writing as to the change
14 in status. If the recipient disagrees with the board's determination, the recipient may request the board to
15 reconsider its action. The request for reconsideration must be made in writing within 60 days after receipt
16 of the notice of the status change.

17 (3) A (a) Except as provided in subsection (3)(b), a recipient whose disability retirement benefit
18 is canceled because the board has determined that the recipient is no longer incapacitated must be
19 reinstated to the position held by the recipient immediately before the recipient's retirement or to a position
20 in the same classification a comparable pay and benefit category within the recipient's capacity, whichever
21 is first open. The fact that the recipient was retired for disability may not prejudice any right to
22 reinstatement to duty that the recipient may have or claim to have.

23 (b) This section does not affect any requirement that the former employee meet or be able to meet
24 professional certification and licensing standards unrelated to the disability and necessary for reinstatement
25 to duty.

26 (4) The department of justice may request a medical or psychological review as to the ability of
27 the recipient to return to work as a member of the highway patrol. If the board's findings are upheld, the
28 department of justice shall pay the cost of the review."

29

30 **Section 25.** Section 19-7-501, MCA, is amended to read:

1 **"19-7-501. Eligibility and application for service retirement — commencement of benefit.** ~~(1)~~ A
 2 member who has completed at least 20 years of membership service may retire on a service retirement
 3 benefit.

4 ~~(2) A member electing to retire shall apply in writing to the board.~~

5 ~~(3) (a) Except as provided in subsections (3)(b) and (3)(c), the retirement benefit may commence~~
 6 ~~on the first day of the month following the member's last day of service or, if requested by the inactive~~
 7 ~~member in writing, on the first day of the month following receipt of the written application.~~

8 ~~(b) The retirement benefit for an eligible inactive member must commence no later than the first~~
 9 ~~day of the month following the member's 65th birthday.~~

10 ~~(c) If an elected official's term of office expires before the 15th day of the month, the official may~~
 11 ~~elect to retire on the first day of the last month of the term of office. An official electing this option may~~
 12 ~~not earn service or compensation for purposes of final average salary under the retirement system in that~~
 13 ~~month, and compensation earned in that month is not subject to employer or member contributions."~~

14

15 **Section 26.** Section 19-7-612, MCA, is amended to read:

16 **"19-7-612. Medical examination of disability retiree -- cancellation of benefit.** (1) The board, in
 17 its discretion, may require the recipient of a disability retirement benefit to undergo a medical examination.
 18 The examination must be made by a physician or surgeon at the recipient's place of residence or at another
 19 place mutually agreed on, at the board's expense. Upon the basis of the examination, the board shall
 20 determine, by reason of physical or mental capacity, whether the recipient can perform the essential
 21 elements of the position held by the recipient when the recipient was retired. If the board determines that
 22 the recipient is not incapacitated, the recipient's disability retirement benefit must be canceled when the
 23 recipient is offered a position under subsection (2) or when, if a position is available, the recipient cannot
 24 be reinstated under subsection (2) for reasons unrelated to the disability. If the recipient refuses to submit
 25 to a medical examination, the recipient's disability retirement benefit must be canceled when the recipient
 26 is notified of the determination of the board.

27 (2) A (a) Except as provided in subsection (2)(b), a person other than an elected official whose
 28 disability retirement benefit is canceled because the person is no longer incapacitated must be reinstated
 29 to the position held by the person immediately before the person's retirement or to a position in the same
 30 classification a comparable pay and benefit category within the person's capacity, whichever is first open.

1 The fact that the person was retired for disability may not prejudice any right to reinstatement to duty that
2 the person may have or claim to have.

3 (b) This section does not affect any requirement that the former employee meet or be able to meet
4 professional certification and licensing standards unrelated to the disability and necessary for reinstatement.

5 (3) The public body required to reinstate a person under subsection (2) may request a medical or
6 psychological review as to the ability of the member to return to work as a member of the sheriff's
7 department. If the board's findings are upheld, the public body shall pay the cost of the review."

8

9 **Section 27.** Section 19-7-708, MCA, is amended to read:

10 **"19-7-708. Eligibility for postretirement adjustment.** (1) Except as provided in subsection (2), a
11 benefit recipient is eligible to receive a postretirement adjustment as provided in 19-7-710 if the recipient
12 is receiving a:

13 ~~(a) monthly service retirement benefit, and is 55 years of age or older on or before June 30 in the~~
14 ~~year that the postretirement adjustment is made; or~~

15 ~~(b) disability retirement benefit, or survivorship benefit.~~

16 (2) A benefit recipient is ineligible to receive a postretirement adjustment under subsection (1)
17 unless the monthly service, disability, or survivorship benefit has been paid for at least 24 consecutive
18 months on or before June 30 in the year the adjustment is made."

19

20 **SECTION 28. SECTION 19-7-801, MCA, IS AMENDED TO READ:**

21 **"19-7-801. Membership in municipal police officers' retirement system prior to or following**
22 **city-county consolidation -- payment of benefits by two systems.** (1) A law enforcement officer who has
23 not changed employment but who has, because of a city-county consolidation, been transferred either from
24 a city police force to a county sheriff's department or from a county sheriff's department to a city police
25 force as a law enforcement officer is eligible for a service retirement benefit if the officer's combined service
26 in the sheriffs' retirement system and the municipal police officers' retirement system satisfies the minimum
27 membership service requirement of the system to which the officer last made contributions. A member who
28 has elected to continue membership in the public employees' retirement system under 19-7-301 may
29 continue the election. However, credit for service in the public employees' retirement system that has not
30 been transferred prior to January 1, 1979, may not be transferred.

1 (2) Eligibility for and calculation of disability retirement, death benefits, and refund of contributions
2 are governed by the provisions of the retirement system to which the officer last made contributions.

3 (3) The service retirement benefit of a member described in subsection (1) must be calculated
4 separately for each system based on the service credited under each system. The calculation for the
5 sheriffs' retirement system portion of the benefit must include the appropriate reduction in the retirement
6 benefit for an optional retirement benefit elected under 19-7-1001. The final salary or final average salary
7 for each calculation must be based on the highest compensation earned while a member of either system.
8 Each system shall pay its proportionate share, based on the number of years of service credited, of the
9 combined benefit. ~~The combined benefit may not exceed 60% of the member's final salary or final average~~
10 ~~salary.~~

11 (4) Upon the death of a retired member receiving a service retirement benefit under this section,
12 the survivor or contingent annuitant and the continuing benefit must be determined separately for each
13 system as follows:

14 (a) For the municipal police officers' retirement system portion of the benefit, the surviving spouse
15 must receive a benefit equal to the municipal police officers' retirement system portion of the service
16 retirement benefit as calculated at the time of the member's retirement. If the retired member leaves no
17 surviving spouse or upon the death of the surviving spouse, the retired member's surviving dependent child,
18 or children collectively if there are more than one, shall receive the same monthly benefits that a surviving
19 spouse would receive for as long as the child or one of the children remains dependent as defined in
20 19-9-104. The benefits must be made to the child's appointed guardian for the child's use. If there is more
21 than one dependent child, upon each child no longer qualifying as dependent under 19-9-104, the pro rata
22 benefits to that child must cease and be paid to the remaining children until all the children are no longer
23 dependent.

24 (b) For the sheriffs' retirement system portion of the benefit:

25 (i) the contingent annuitant must receive a continuing benefit as determined under 19-7-1001, if
26 the retired member elected an optional retirement benefit; or

27 (ii) if the retired member did not elect an optional retirement benefit, any payment owed the retired
28 member, including the excess, if any, of the retired member's accumulated contributions standing to the
29 retired member's credit at the time of retirement less payments made to the retired member must be paid
30 to the retired member's designated beneficiary."

1 **Section 29.** Section 19-8-601, MCA, is amended to read:

2 "**19-8-601. Time of retirement — commencement of benefit.** (1) Any A member in service who has
3 completed at least 20 years of membership service, reached the age of 50 years, and terminated service
4 may retire with a service retirement benefit upon written application to the board.

5 ~~(2) (a) Except as provided in subsection (2)(b), the retirement benefit may commence on the first~~
6 ~~day of the month following the member's last day of service or, if requested by the inactive member in~~
7 ~~writing, on the first day of the month following receipt of the written application.~~

8 ~~(b) The retirement benefit for an eligible inactive member must commence no later than the first~~
9 ~~day of the month following the member's 60th birthday."~~

10

11 **Section 30.** Section 19-8-712, MCA, is amended to read:

12 "**19-8-712. Medical examination of disability retiree -- cancellation of benefit.** (1) The board, in
13 its discretion, may require the recipient of a disability retirement benefit to undergo a medical examination.
14 The examination must be made by a physician or surgeon at the recipient's place of residence or at another
15 place mutually agreed on, at the board's expense. Upon the basis of the examination, the board shall
16 determine, by reason of physical or mental capacity, whether the recipient can perform the essential
17 elements of the position held by the recipient when the recipient retired. If the board determines that the
18 recipient is not incapacitated, the recipient's disability retirement benefit must be canceled when the
19 recipient is offered a position under subsection (3) or when, if a position is available, the recipient cannot
20 be reinstated under subsection (3) for reasons unrelated to the disability. If the recipient refuses to submit
21 to a medical examination, the recipient's disability retirement benefit must be canceled when the recipient
22 is notified of the determination of the board.

23 (2) If the board determines that a recipient of a disability retirement benefit should no longer be
24 subject to medical review, the board may grant a service retirement status to the recipient without
25 recalculating the recipient's monthly benefit. The board shall notify the recipient in writing as to the change
26 in status. If the recipient disagrees with the board's determination, the recipient may request the board to
27 reconsider its action. The request for reconsideration must be made in writing within 60 days after receipt
28 of the notice of the status change.

29 (3) ~~A~~ (a) Except as provided in subsection (3)(b), a recipient whose disability retirement benefit is
30 canceled because the board has determined that the recipient is no longer incapacitated must be reinstated

1 to the position held by the recipient immediately before the recipient's retirement or to a position in ~~the~~
 2 ~~same classification~~ a comparable pay and benefit category within the recipient's capacity, whichever is first
 3 open. The fact that the recipient was retired for disability may not prejudice any right to reinstatement to
 4 duty that the recipient may have or claim to have.

5 (b) This section does not affect any requirement that the former employee meet or be able to meet
 6 professional certification and licensing standards unrelated to the disability and necessary for reinstatement.

7 (4) The department of fish, wildlife, and parks may request a medical or psychological review as
 8 to the ability of the recipient to return to work as a game warden. If the board's findings are upheld, the
 9 department of fish, wildlife, and parks shall pay the cost of the review."

10

11 **Section 31.** Section 19-8-1101, MCA, is amended to read:

12 **"19-8-1101. Eligibility for postretirement adjustment.** (1) Except as provided in subsection (2), a
 13 benefit recipient is eligible to receive a postretirement adjustment as provided in 19-8-1103 if the recipient
 14 is receiving a:

15 ~~(a) monthly service retirement benefit, and is 55 years of age or older on or before June 30 in the~~
 16 ~~year that the postretirement adjustment is made; or~~

17 ~~(b) disability retirement benefit, or survivorship benefit.~~

18 (2) A benefit recipient is ineligible to receive a postretirement adjustment under subsection (1)
 19 unless the monthly service, disability, or survivorship benefit has been paid for at least 24 consecutive
 20 months on or before June 30 in the year the adjustment is made."

21

22 **Section 32.** Section 19-9-801, MCA, is amended to read:

23 **"19-9-801. Eligibility for service retirement -- commencement of benefit.** (1) Members are eligible
 24 for retirement as provided in this section.

25 (2) A member is eligible to receive a service retirement benefit when the member has completed
 26 20 years or more of membership service and has terminated service.

27 (3) A member who terminates service after completing at least 10 years of membership service
 28 but prior to completing 20 years of membership service is eligible to receive a service retirement benefit
 29 when the member has reached 50 years of age.

30 ~~(4) (a) Except as provided in subsection (4)(b), the retirement benefit may commence on the first~~

1 ~~day of the month following the member's minimum retirement date or, if requested by the inactive member~~
 2 ~~in writing, on the first day of the month following receipt of the written application.~~

3 ~~(b) The retirement benefit for an eligible inactive member must commence no later than the first~~
 4 ~~day of the month following the member's 55th birthday."~~

5

6 **Section 33.** Section 19-9-904, MCA, is amended to read:

7 **"19-9-904. Termination of disability benefit.** The board, in its discretion, may require the recipient
 8 of a disability retirement benefit to undergo a medical examination. The examination must be made by a
 9 physician or surgeon at the recipient's place of residence or at another place mutually agreed on, at the
 10 board's expense. Upon the basis of the examination, the board shall determine, by reason of physical or
 11 mental capacity, whether the recipient can perform the essential elements of the position held by the
 12 recipient when the recipient was retired. If an inactive member is determined by the board to be no longer
 13 disabled, the inactive member's disability retirement benefit must be canceled when the inactive member
 14 is offered a position under 19-9-905 or when, if a position is available, the former employee could not be
 15 reinstated under 19-9-905 for reasons unrelated to the disability. If the inactive member refuses to submit
 16 to a medical examination, the inactive member's disability retirement benefit must cease as of the date of
 17 the determination. The inactive member must be notified of the determination by the board. The board may
 18 review the status of an inactive member at any time."

19

20 **Section 34.** Section 19-9-905, MCA, is amended to read:

21 **"19-9-905. Reinstatement upon termination of disability benefit.** (1) A (a) Except as provided in
 22 subsection (1)(b), a retired member whose disability retirement benefit is cancelled as provided in 19-9-904
 23 must be reinstated to the position held by the member immediately before retirement or to a position in ~~the~~
 24 ~~same classification~~ a comparable pay and benefit category with duties within the member's capacity,
 25 whichever is first open. The board shall advise the employer that the disability retirement benefit has been
 26 cancelled and that the member is eligible for reinstatement to duty. The fact that the member was retired
 27 for disability may not prejudice any right to reinstatement to duty that the member may have or claim to
 28 have.

29 (b) This section does not affect any requirement that the former employee meet or be able to meet
 30 professional certification and licensing standards unrelated to the disability and necessary for reinstatement.

1 (2) The city may request a medical or psychological review as to the ability of the member to return
2 to work as a police officer. If the board's findings are upheld, the city shall pay the costs of the review.

3 (3) If the retired member again becomes an active member by returning to service with an employer
4 within 30 days following receipt of notice under 19-9-904, the member must be considered to have been
5 continuously employed during the term of the member's disability. If the retired member fails to become
6 an active member by returning to service with an employer within 30 days following receipt of the notice,
7 the member's termination of service is considered to have occurred as of the member's disability retirement
8 date and the retirement benefit, if any, to which the member becomes entitled on the member's service
9 retirement date must be determined accordingly."

10
11 **Section 35.** Section 19-13-701, MCA, is amended to read:

12 **"19-13-701. Eligibility for service retirement -- commencement of benefit.** (1) A member who has
13 completed 20 years or more of membership service is eligible for service retirement ~~commencing on the first~~
14 ~~day of the month following the member's last day of service.~~

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

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

22
23 **Section 36.** Section 19-13-804, MCA, is amended to read:

24 **"19-13-804. Medical examination of disability retiree -- cancellation of benefit.** (1) The board, in
25 its discretion, may require the recipient of a disability retirement benefit to undergo a medical examination
26 at the board's expense. The examination must be made by a physician or surgeon at the recipient's place
27 of residence or at another place mutually agreed on. Based on the results of the examination, the board
28 shall determine whether the recipient has the physical or mental capacity to perform the essential elements
29 required by the recipient's former position. If the board determines that the recipient is not incapacitated,
30 or if the recipient refuses to submit to a medical examination, or if, when a position is available, the

1 recipient cannot be reinstated under 19-13-805 for reasons unrelated to the disability, the recipient's
2 disability retirement benefit must be canceled. The board shall notify the recipient of this determination and
3 the cancellation of the recipient's benefit.

4 (2) The cancellation of a disability retirement benefit because a member is no longer incapacitated
5 does not prejudice any right of the member to a service retirement benefit."
6

7 **Section 37.** Section 19-13-805, MCA, is amended to read:

8 **"19-13-805. Reinstatement upon termination of benefit.** (1) (a) ~~An inactive~~ Except as provided
9 in subsection (1)(c), a member whose disability retirement benefit is canceled as provided in 19-13-804
10 must be reinstated to the position held by the member immediately before the member's retirement or to
11 a position in the same classification a comparable pay and benefit category with duties within the member's
12 capacity if an appropriate vacancy exists within the member's fire department. The board shall advise the
13 employer that the disability retirement benefit has been canceled and that the inactive member is eligible
14 for reinstatement to duty. The fact that the member was retired for disability may not prejudice any right
15 to reinstatement to duty that the inactive member may have or claim to have.

16 (b) If an appropriate vacancy does not exist within an inactive member's fire department when the
17 member's disability benefit is canceled under 19-13-804, the member's benefit must be reinstated until a
18 vacancy occurs.

19 (c) This section does not affect any requirement that the former employee meet or be able to meet
20 professional certification and licensing standards unrelated to the disability and necessary for reinstatement.

21 (2) The city may request a medical or psychological review as to the ability of the member to return
22 to work as a firefighter. If the board's findings are upheld, the city shall pay the costs of the review.

23 (3) If the inactive member again becomes an active member by returning to active work for an
24 employer within 30 days following receipt of notice under 19-13-804, the member is considered to have
25 been continuously employed during the term of the member's disability. If the inactive member fails to
26 become an active member by returning to active work for an employer within 30 days following receipt of
27 this notice, the member's termination of employment is considered to have occurred as of the member's
28 disability retirement date and the retirement benefit, if any, to which the member becomes entitled on the
29 member's service retirement must be determined accordingly."
30

1 **Section 38.** Section 19-17-102, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

16 (9) "Fire company" means a fire company organized in an unincorporated area, town, or village in
17 accordance with 7-33-2311.

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

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

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

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

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

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

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

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

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

5
6 **NEW SECTION. Section 39. Repealer.** Sections 19-3-903 and 19-3-1006, MCA, are repealed.

7
8 **NEW SECTION. Section 40. Codification instruction.** (1) [Section 1] is intended to be codified as
9 an integral part of Title 19, chapter 2, part 10, and the provisions of Title 19, chapter 2, part 10, apply to
10 [section 1].

11 (2) [Section 2] is intended to be codified as an integral part of Title 19, chapter 8, part 9, and the
12 provisions of Title 19, chapter 8, part 9, apply to [section 2].

13 (3) [Section 3] is intended to be codified as an integral part of Title 19, chapter 2, part 9, and the
14 provisions of Title 19, chapter 2, part 9, apply to [section 3].

15
16 **NEW SECTION. Section 41. Retroactive applicability.** [Section 15] applies retroactively, within
17 the meaning of 1-2-109, to the period beginning January 1, 1995.

18
19 **NEW SECTION. Section 42. Effective date.** [This act] is effective on passage and approval.

20 -END-

1 SENATE BILL NO. 124

2 INTRODUCED BY CHRISTIAENS

3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS ADMINISTERED BY THE
6 PUBLIC EMPLOYEES' RETIREMENT BOARD; PROVIDING THAT FEDERAL TAX LAWS GOVERNING
7 QUALIFICATION OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEMS SUPERSEDE CONFLICTING STATE
8 STATUTES; GIVING THE BOARD RULEMAKING AUTHORITY; DEFINING "STATUTORY BENEFICIARY" AND
9 "TERMINATION OF EMPLOYMENT" OR "TERMINATION OF SERVICE"; ALLOWING MEMBERS OF THE
10 GAME WARDENS' RETIREMENT SYSTEM TO QUALIFY PERIODS OF ABSENCE FROM COVERED
11 EMPLOYMENT BECAUSE OF SERVICE-CONNECTED INJURY OR ILLNESS; CLARIFYING CERTAIN SERVICE
12 CREDIT PROVISIONS; ALLOWING MAILINGS FOR CERTAIN NONPROFIT ORGANIZATIONS; CLARIFYING
13 CERTAIN DEFINITIONS; ~~PROVIDING THAT~~ REVISING CERTAIN PROVISIONS RELATED TO FAMILY LAW
14 ~~ORDERS MAY NOT BE ENTERED UNLESS CERTAIN PROVISIONS ARE APPROVED BY THE BOARD;~~
15 REVISING CERTAIN OPTIONAL MEMBERSHIP PROVISIONS; REVISING PROVISIONS RELATED TO THE
16 TRANSFER OF SERVICE FROM THE TEACHERS' RETIREMENT SYSTEM; CLARIFYING BENEFIT
17 COMMENCEMENT DATES FOR ALL SYSTEMS; ALLOWING CANCELLATION OF DISABILITY BENEFITS
18 AND AN EXCEPTION TO REINSTATEMENT PROVISIONS; REVISING CERTAIN PROVISIONS RELATED TO
19 BENEFICIARY DESIGNATION AND SURVIVOR BENEFIT OPTIONS; AMENDING SECTIONS 2-6-109,
20 19-2-303, 19-2-701, 19-2-702, 19-2-704, 19-2-801, 19-2-802, 19-2-907, 19-3-401, 19-3-412, 19-3-504,
21 19-3-511, 19-3-513, 19-3-1015, 19-3-1104, 19-3-1601, 19-5-103, 19-5-601, 19-5-801, 19-6-501,
22 19-6-612, 19-7-501, 19-7-612, 19-7-708, 19-7-801, 19-8-601, 19-8-712, 19-8-1101, 19-9-801,
23 19-9-904, 19-9-905, 19-13-701, 19-13-804, 19-13-805, AND 19-17-102, MCA; REPEALING SECTIONS
24 19-3-903 AND 19-3-1006, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A
25 RETROACTIVE APPLICABILITY DATE."

26
27 STATEMENT OF INTENT

28 A statement of intent is required for this bill because [sections 1 and 3] give the public employees'
29 retirement board authority to adopt administrative rules.

30 A fundamental purpose of the public employee retirement systems is to provide members with a

1 federal income tax-deferred retirement plan. To qualify for federally deferred income tax status, each
 2 retirement plan must conform with the requirements of section 401 of the Internal Revenue Code, which
 3 may be amended from time to time.

4 It is the intent of the legislature that Montana statutory provisions in conflict with section 401 of
 5 the Internal Revenue Code and related federal regulations and that would result in a retirement plan being
 6 disqualified are ineffective or must be interpreted so that the retirement plans may retain tax-deferred
 7 status.

8 It is the further intent of the legislature to clarify when a member of a retirement system becomes
 9 a retiree. The retirement date is the date on which the member accepts the first benefit payment. An
 10 inactive member who has not met all eligibility requirements for retirement, including proper submission of
 11 a written application for retirement benefits, should not be considered a "retiree" during the period of time
 12 before the member actually began receiving benefit payments, even though the member may later receive
 13 payments retroactive to an earlier commencement date. Because retirees may not earn membership service
 14 or purchase service credits in the retirement systems and active and inactive members may not receive
 15 benefit adjustments granted to current retirees, it is imperative to the actuarial soundness of the systems
 16 to clarify the retirement date of each member.

17

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

19

20 **NEW SECTION. Section 1. Retaining qualified plan status -- board rulemaking authority.** If a
 21 statutory provision affecting a retirement plan administered by the board conflicts with a qualification
 22 requirement in section 401 of the Internal Revenue Code and consequent federal regulations, the provision
 23 is either ineffective or must be interpreted to conform with the federal qualification requirements and allow
 24 the system to retain tax-deferred status. The board may adopt rules to implement this section.

25

26 **NEW SECTION. Section 2. Absence due to injury or illness.** (1) Time, not to exceed 5 years,
 27 during which a member is absent because of an injury or illness is considered membership service if, within
 28 1 year after the end of the absence, the injury or illness is determined to have arisen out of and in the
 29 course of the member's employment. However, the member may not earn service credits for the absence
 30 unless the member complies with subsections (2) through (4), in which case the absence is considered as

1 time spent in service for both service credits and membership service.

2 (2) (a) A member absent because of an employment-related injury entitling the member to workers'
3 compensation payments may, upon the member's return to service, contribute an amount equal to the
4 contributions that the member would have made on the basis of the member's compensation at the
5 commencement of the member's absence plus regular interest accruing from 1 year from the date after the
6 member returns to covered service to the date the member contributes for the period of absence.

7 (b) Whenever a member elects to contribute under subsection (2)(a), the employer shall contribute
8 employer contributions for the period of absence based on the salary as calculated in subsection (2)(a) and
9 may pay interest on the employer's contribution calculated in the same manner as interest on the
10 employee's contribution under subsection (2)(a). An employer electing to make an interest payment shall
11 do so for all employees similarly situated. If the employer elects not to pay the interest costs, this amount
12 must be paid by the employee.

13 (3) At some time after returning to covered service, a member shall file with the board a written
14 notice of the member's intent to pay the contributions under subsection (2).

15 (4) Payment of the employee's contributions due because of the period of absence may be made
16 in one sum at the time of filing the notice or on an installment basis before termination of covered service.

17 (5) A member loses the right to contribute for an absence under this section if all of the member's
18 accumulated contributions are refunded pursuant to 19-2-602 or for the period of time during which
19 benefits are received if the member retires during the absence.

20

21 **NEW SECTION. Section 3. Time of commencement of benefit.** (1) (a) The board shall grant a
22 benefit to any member, or the member's statutory or designated beneficiary, who has fulfilled all eligibility
23 requirements, terminated covered service, and filed the appropriate written application.

24 (b) A member may apply for retirement benefits before terminating covered service, but
25 commencement of the benefits must be as provided in this section.

26 (2) (a) Except as provided in subsection (2)(b), the service retirement benefit may commence on
27 the first day of the month following the eligible member's last day of membership service or, if requested
28 by the inactive member in writing, on the first day of a later month following receipt of the written
29 application.

30 (b) If an elected official's term of office expires before the 15th day of the month, the official may

1 elect that service retirement benefits commence on the first day of the month following the official's last
2 full month in office. An official electing this option may not earn membership service, service credit, or
3 compensation for purposes of calculating final average salary under the retirement system in the partial
4 month ending the official's term, and compensation earned in that partial month is not subject to employer
5 or employee contributions.

6 (3) The disability retirement benefit payable to a member must commence on the day following the
7 member's termination from service.

8 (4) Monthly survivorship benefits must commence on the day following the death of the member.

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

11

12 **Section 4.** Section 2-6-109, MCA, is amended to read:

13 **"2-6-109. Prohibition on distribution or sale of mailing lists -- exceptions -- penalty.** (1) Except as
14 provided in subsections (3) through (8), in order to protect the privacy of those who deal with state and
15 local government:

16 (a) an agency may not distribute or sell for use as a mailing list any list of persons without first
17 securing the permission of those on the list; and

18 (b) a list of persons prepared by the agency may not be used as a mailing list except by the agency
19 or another agency without first securing the permission of those on the list.

20 (2) As used in this section, "agency" means any board, bureau, commission, department, division,
21 authority, or officer of the state or a local government.

22 (3) Except as provided in 30-9-403, this section does not prevent an individual from compiling a
23 mailing list by examination of original documents or applications that are otherwise open to public
24 inspection.

25 (4) This section does not apply to the lists of registered electors and the new voter lists provided
26 for in 13-2-115 and 13-38-103, to lists of the names of employees governed by Title 39, chapter 31, or
27 to lists of persons holding driver's licenses provided for under 61-5-126.

28 (5) This section does not prevent an agency from providing a list to persons providing preclicensing
29 or continuing educational courses subject to Title 20, chapter 30, or specifically exempted from that
30 chapter as provided in 20-30-102, or subject to Title 33, chapter 17.

1 (6) This section does not apply to the right of access either by Montana law enforcement agencies
2 or, by purchase or otherwise, of public records dealing with motor vehicle registration.

3 (7) This section does not apply to a corporate information list developed by the secretary of state
4 containing the name, address, registered agent, officers, and directors of business, nonprofit, religious,
5 professional, and close corporations authorized to do business in this state.

6 (8) This section does not apply to the use by the public employees' retirement board of a mailing
7 list of board-administered retirement system participants to send materials on behalf of a ~~third party~~
8 RETIREE ORGANIZATION FORMED FOR BOARD-ADMINISTERED RETIREMENT SYSTEM PARTICIPANTS
9 AND with tax-exempt status under section ~~501(c)(3)~~ 501(c)(4) of the Internal Revenue Code, as amended,
10 for a fee determined by rules of the board, provided that the mailing list is not released to the ~~third party~~
11 ORGANIZATION.

12 (9) A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor."
13

14 **Section 5.** Section 19-2-303, MCA, is amended to read:

15 "**19-2-303. Definitions.** Unless the context requires otherwise, for each of the retirement systems
16 subject to this chapter, the following definitions apply:

17 (1) "Accumulated contributions" means the sum of all the regular and any additional contributions
18 made by a member in a system, together with the regular interest on the contributions.

19 (2) "Active member" means a member who is ~~an a paid~~ a paid employee of an employer ~~and who,~~ is
20 making the required contributions ~~to the system based on the member's compensation paid by the~~
21 employer, and is properly reported to the division for the most current reporting period.

22 (3) "Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory
23 manner to represent the present value of the benefits to be derived from the additional service to be
24 credited based on the most recent actuarial valuation for the system and the age, years until retirement,
25 and current salary of the member.

26 (4) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the
27 1971 Group Annuity Mortality Table, with ages set back 4 years and an interest rate of 8% compounded
28 annually.

29 (5) "Actuarial liabilities" means the excess of the present value of all benefits payable under a
30 retirement system over the present value of future normal costs in that retirement system.

1 (6) "Actuary" means the actuary retained by the board in accordance with 19-2-405.

2 (7) "Additional contributions" means contributions made by a member to purchase various types
3 of optional service credit as allowed by the applicable retirement system.

4 (8) "Annuity" means equal and fixed payments for life that are the actuarial equivalent of a
5 lump-sum payment under a retirement system and as such are not benefits paid by a retirement system and
6 are not subject to periodic or one-time increases.

7 (9) "Benefit" means the service or disability retirement or survivorship benefit payment provided
8 by a retirement system.

9 (10) "Board" means the public employees' retirement board provided for in 2-15-1009.

10 (11) "Contingent annuitant" means a person designated to receive a continuing ~~annuity~~ monthly
11 benefit after the death of a retired member.

12 (12) "Credited service" or "service credit" means the periods of time for which the required
13 contributions have been made to a retirement system and that are used to calculate service or disability
14 retirement or survivorship benefits under a retirement system.

15 (13) "Department" means the department of administration.

16 (14) "Designated beneficiary" means the person designated by a member or payment recipient to
17 receive any survivorship benefits or lump-sum payments upon the death of the member or payment
18 recipient, including annuities derived from the benefits or payments.

19 (15) "Disability" means a total inability of the member to perform the member's duties by reason
20 of physical or mental incapacity. The disability must be incurred while the member is an active member and
21 must be one of permanent duration or of extended and uncertain duration, as determined by the board on
22 the basis of competent medical opinion.

23 (16) "Division" means the public employees' retirement division of the department of administration.

24 (17) "Employee" means a person who is employed by an employer in any capacity and whose salary
25 is paid by the employer.

26 (18) "Employer" means a governmental entity participating in a retirement system enumerated in
27 19-2-302 on behalf of its eligible employees.

28 (19) "Essential elements of the position" means fundamental job duties. An element may be
29 considered essential because of but not limited to the following factors:

30 (a) the position exists to perform the element;

1 (b) there are a limited number of employees to perform the element; or

2 (c) the element is highly specialized.

3 (20) "Fiscal year" means any year commencing with July 1 and ending the following June 30.

4 (21) "Inactive member" means a member who ~~has terminated service with an employer and has not~~
5 ~~withdrawn the member's accumulated contributions from the retirement system~~ is not an active or retired
6 member.

7 (22) "Member" means any person with accumulated contributions and service credited with a
8 retirement system or receiving a retirement benefit on account of the person's previous service credited
9 in a retirement system.

10 (23) "Membership service" or "years of service" means the periods of service that are used to
11 determine eligibility for retirement or other benefits.

12 (24) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost
13 method required to fund accruing benefits for members of a retirement system during any year in the future.
14 Normal cost does not include any portion of the supplemental costs of a retirement system.

15 (25) "Pension" means benefit payments for life derived from contributions to a system made from
16 state- or employer-controlled funds.

17 (26) "Pension trust fund" means a fund established to hold the contributions, income, and assets
18 of a retirement system in public trust.

19 (27) "Regular contributions" means contributions required from members under a retirement system.

20 (28) "Regular interest" means interest at the rate set from time to time by the board.

21 (29) "Retirement" or "retired" means the status of a member who has terminated from service ~~with~~
22 and has received and accepted a retirement benefit ~~under~~ from a retirement system.

23 (30) "Retirement benefit" means the periodic benefit payable ~~following~~ as a result of service, early,
24 or disability retirement under a retirement system. An annuity is not a retirement benefit.

25 (31) "Retirement system" or "system" means one of the public employee retirement systems
26 enumerated in 19-2-302.

27 (32) "Service" means employment of an employee in a position covered by a retirement system.

28 (33) "Statutory beneficiary" means the surviving spouse or dependent child or children of a member
29 of the highway patrol officers', municipal police officers' or firefighters' unified retirement systems who are
30 statutorily designated to receive benefits upon the death of the member.

1 (34) "Supplemental cost" means an element of the total actuarial cost of a retirement system arising
 2 from benefits payable for service performed prior to the inception of the retirement system or prior to the
 3 date of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure to fund or
 4 otherwise recognize normal cost accruals or interest on supplemental costs. These costs are included in
 5 the unfunded actuarial liabilities of the retirement system.

6 ~~(34)~~(35) "Survivorship benefit" means payments for life to the statutory or designated beneficiary
 7 of a deceased member who died while in service under a retirement system.

8 ~~(35)~~(36) "Termination of employment" or "termination of service" means that the member has
 9 severed the employment relationship with the employer and has been paid all compensation due upon
 10 termination of employment, including but not limited to payment of accrued annual leave credits, as
 11 provided in 2-18-617, and payment of accrued sick leave credits, as provided in 2-18-618. For purposes
 12 of this subsection, compensation as a result of legal action, court order, appeal, or settlement to which the
 13 board was not party is not a payment due upon termination.

14 (37) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a retirement
 15 system's actuarial liabilities at any given point in time over the value of its cash and investments on that
 16 same date.

17 ~~(36)~~(38) "Vested member" or "vested" means a member or the status of a member who has
 18 attained the minimum membership service requirements to be eligible for retirement benefits under a
 19 retirement system.

20 ~~(37)~~(39) "Written application" means a written instrument duly executed and filed with the board
 21 and containing all information required by the board, including such proofs of age as the board considers
 22 necessary."
 23

24 **Section 6.** Section 19-2-701, MCA, is amended to read:

25 "19-2-701. **Service credit.** Subject to the provisions of chapters 3, 5 through 9, and 13 ~~of this~~
 26 ~~title~~, a member must receive 1 month of service credit for each full month of service under rules adopted
 27 by the board. Service credits must be used in calculating a retirement or survivorship benefit. A retired
 28 member is not eligible to earn service credit."

29

30 **Section 7.** Section 19-2-702, MCA, is amended to read:

1 "19-2-702. **Membership service.** A member who is not retired must receive membership service
2 for all periods of service, regardless of hours worked or compensation received during that service. The
3 service must be used to determine:

- 4 (1) whether a member is vested;
- 5 (2) when the member is eligible for early or normal service retirement or disability retirement; or
- 6 (3) the eligibility of beneficiaries for survivorship benefits."

7
8 **Section 8.** Section 19-2-704, MCA, is amended to read:

9 "19-2-704. **Purchasing service credits allowed.** (1) Subject to the rules promulgated by the board,
10 an eligible member may elect to contribute amounts in addition to the mandatory employee contributions
11 required by the retirement system in which the member participates for the purpose of purchasing service
12 credits as provided by the statutes governing the retirement system.

13 (2) A member eligible to qualify service under the provisions of 19-3-509, 19-3-511, 19-6-802,
14 19-7-802, 19-8-902, 19-9-405, and 19-13-404 may, at any time prior to retirement, elect to transfer all
15 or a portion of the member's accumulated contributions on deposit in a pension trust fund from which
16 service is being transferred to the pension trust fund of another plan in which service is being credited. The
17 transfer of contributions may include both taxed contributions and tax-deferred contributions and interest.
18 However, if less than all of the accumulated contributions on deposit in a pension trust fund is being
19 transferred, the transfer of taxed and tax-deferred amounts must be made on a proportionate basis, with
20 the remainder refunded to the member. The transferring agency shall identify at the time of the transfer the
21 taxed and tax-deferred amounts being transferred.

22 (3) Subject to any statutory provision establishing stricter limitations, only active or vested inactive
23 members are eligible to purchase, qualify, or transfer service credits, membership service, or contributions."
24

25 **Section 9.** Section 19-2-801, MCA, is amended to read:

26 "19-2-801. **Designation of beneficiary.** In the absence of any ~~statutorily designated persons~~
27 statutory beneficiaries, ~~the designated beneficiaries of a member~~ are the natural persons, ~~charitable~~
28 ~~organizations, or trusts for the benefit of natural living persons~~ that the member or payment recipient
29 designates on the membership card or other form provided by the division. Unless otherwise provided by
30 statute, a member or payment recipient may revoke the designation and name different designated

1 beneficiaries by filing with the board a new membership card ~~with the board~~ or other form provided by the
 2 division."

3

4 Section 10. Section 19-2-802, MCA, is amended to read:

5 "19-2-802. **Effect of no designation or no surviving designated beneficiary.** (1) If a living statutory
 6 or designated beneficiary, existing charitable organization, or natural living person who is the beneficiary
 7 of a trust is not designated does not survive the member or payment recipient, the estate of the member
 8 or payment recipient is the designated beneficiary entitled to any lump-sum payment or retirement benefit
 9 accrued but not received prior to the statutory or designated beneficiary's death. If the estate would not
 10 be probated but for the amount due from the retirement system, all of the amount due, ~~including retirement~~
 11 ~~benefits accrued but not received prior to death~~, must be paid directly, without probate, to the surviving
 12 next of kin of the deceased or the guardians of the survivor's estate, share and share alike.

13 (2) Payment must be made in the same order in which the following groups are listed:

- 14 (a) husband or wife;
 15 (b) children;
 16 (c) father and mother;
 17 (d) grandchildren;
 18 (e) brothers and sisters; or
 19 (f) nieces and nephews.

20 (3) A payment may not be made to a person included in any of the groups listed in subsection (2)
 21 if at the date of payment there is a living person in any of the groups preceding the group of which the
 22 person is a member, as listed. Payment must be made upon receipt from the person of an affidavit, upon
 23 a form supplied by the retirement division, that there are no living individuals in the groups preceding the
 24 group of which the person is a member and that the estate of the deceased will not be probated.

25 (4) The payment must be in full and complete discharge and acquittance of the board and system
 26 on account of the member's or payment recipient's death."

27

28 Section 11. Section 19-2-907, MCA, is amended to read:

29 "19-2-907. **Alternate payees -- family law orders.** (1) A participant in a retirement system may
 30 have the participant's rights modified or recognized by a family law order.

1 (2) For purposes of this section:

2 (a) "participant" means a member or an actual or potential beneficiary, survivor, or contingent
3 annuitant of a retirement system designated pursuant to Title 19, chapter 3, 5, 6, 7, 8, 9, 13, or 17; and

4 (b) "family law order" means a judgment, decree, or order of a court of competent jurisdiction
5 under Title 40 concerning child support, parental support, spousal maintenance, or marital property rights
6 that includes a transfer of all or a portion of a participant's payment rights in a retirement system to an
7 alternate payee in compliance with this section.

8 (3) A family law order must identify an alternate payee by full name, current address, and social
9 security number. An alternate payee's rights and interests granted in compliance with this section are not
10 subject to assignment, execution, garnishment, attachment, or other process. An alternate payee's rights
11 or interests may be modified only by a family law order amending the family law order that established the
12 right or interest.

13 (4) A family law order may not require:

14 (a) a type or form of benefit, option, or payment not available to the affected participant under the
15 appropriate retirement system; or

16 (b) an amount or duration of payment greater than that available to a participant under the
17 appropriate retirement system.

18 (5) A family law order may only provide for payment to an alternate payee as follows:

19 (a) Service retirement benefit payments or withdrawals of member contributions may be
20 apportioned by directing payment of a percentage of the amount payable or payment of a fixed amount of
21 no more than the amount payable to the participant.

22 (b) The maximum amount of disability or survivorship benefits that may be apportioned to alternate
23 payees is the monthly benefit amount that would have been payable on the date of termination of service
24 if the member had retired without disability or death. Conversion of a disability retirement to a service
25 retirement pursuant to 19-2-406(4), 19-3-1015(2), 19-6-612(2), or 19-8-712(2) does not increase the
26 maximum monthly amount that may be apportioned to an alternate payee.

27 (c) Retirement benefit adjustments for which a participant is eligible after retirement may be
28 apportioned only if existing benefit payments are apportioned. The adjustments must be apportioned in the
29 same ratio as existing benefit payments.

30 (d) Payments must be limited to the life of the appropriate participant. The duration of payments

1 to an alternate payee may be further limited only to a specified maximum time, the life of the alternate
 2 payee, or the life of a specified participant. Payments to an alternate payee may be limited to a specific
 3 amount per month if the number of payments is specified. The alternate payee's rights and interests survive
 4 the alternate payee's death and may be transferred by inheritance.

5 (e) The participant may be required to choose a specified form of benefit payment or designate a
 6 beneficiary or contingent annuitant if the retirement system allows for that option.

7 (6) The board may assess a participant or an alternate payee for all costs of reviewing and
 8 administering a family law order, including reasonable attorney fees. The board may adopt rules to
 9 implement this section.

10 ~~(7) A court may not enter a family law order unless terms of the proposed order that relate to~~
 11 ~~payments by the retirement system have been approved by the board~~ **EACH FAMILY LAW ORDER**
 12 **ESTABLISHING A FINAL OBLIGATION CONCERNING PAYMENTS BY THE RETIREMENT SYSTEM MUST**
 13 **CONTAIN A STATEMENT THAT THE ORDER IS SUBJECT TO REVIEW AND APPROVAL BY THE BOARD."**

14

15 **Section 12.** Section 19-3-401, MCA, is amended to read:

16 **"19-3-401. Membership -- inactive vested members -- inactive nonvested members.** (1) Except
 17 as otherwise provided in this chapter, all ~~eligible~~ employees shall become members on the first day of
 18 ~~covered employment service~~. Each ~~eligible employee employer~~ shall file with the board information affecting
 19 ~~the employee's~~ **their employees'** status as ~~a member~~ **members** of the retirement system as the board may
 20 require.

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

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

28 (4) Every employee who reenters service shall become a member unless the employee has had an
 29 original election of exemption from membership and the employee's service was not interrupted by a break
 30 of more than 1 month. A seasonal employee who has had an original election of exemption from

1 membership is not subject to the requirement regarding the break in service while continuing in the
 2 employee's original employment and employed on a seasonal basis, but upon termination of employment
 3 to accept new employment or absence of more than 1 month in returning to original employment in any
 4 ensuing season, the seasonal employee shall become a member of the retirement system upon reentry.

5 (5) Time during which an employee of a school district is absent from service during official
 6 vacation is counted as service in determining eligibility for membership under this chapter."

7
 8 **Section 13.** Section 19-3-412, MCA, is amended to read:

9 "**19-3-412. Optional membership.** (1) The following employees in covered employment may
 10 become members of the retirement system at their option at any time during their employment in a covered
 11 position by filing a membership card with the board:

12 ~~(1)(a)~~ elected officials of the state or local governments who are paid on a salary or wage basis
 13 rather than on a per diem or other reimbursement basis;

14 ~~(2)(b)~~ part-time employees serving in employment that does not exceed ~~the equivalent of 120~~
 15 ~~working days~~ a total of 960 hours of employment covered by this chapter in any fiscal year;

16 ~~(3)(c)~~ employees directly appointed by the governor;

17 ~~(4)(d)~~ employees working 6 months or less for the legislative branch to perform work related to
 18 the legislative session;

19 ~~(5)(e)~~ the chief administrative officer of any city or county;

20 ~~(6)(f)~~ employees of county hospitals or rest homes in the sixth- and seventh-class counties.

21 (2) If an employee declines optional membership, the employee shall execute a statement waiving
 22 membership and the employer shall retain the statement."

23
 24 **Section 14.** Section 19-3-504, MCA, is amended to read:

25 "**19-3-504. Absence due to illness or injury.** (1) Time, not to exceed 5 years, during which a
 26 member is absent from service ~~by reason because~~ because of injury or illness ~~determined within 1 year after the end~~
 27 ~~of the absence as arising out of and in the course of the member's employment~~ is considered membership
 28 service if, within 1 year after the end of the absence, the injury or illness is determined to have arisen out
 29 of and in the course of the member's employment. However, the member may not earn service credits for
 30 this period unless the member complies with subsections (2) through (4), in which case the absence is

1 considered as time spent in service for both service credits and membership ~~credits~~ service.

2 (2) (a) ~~Any~~ A member absent because of an employment-related injury ~~that entitles~~ entitling the
3 member to workers' compensation payments may, upon the member's return to service, contribute to the
4 retirement system, ~~upon the member's return to service~~, an amount equal to the contributions that would
5 have been made by the member to the system on the basis of the member's compensation at the
6 commencement of the member's absence plus regular interest accruing from 1 year from the date after the
7 member returns to covered service to the date the member contributes for the period of absence.

8 (b) Whenever a member elects to contribute under subsection (2)(a), the employer shall contribute
9 ~~an amount equal to what its employer contributions would have been had the member not been absent from~~
10 ~~service. In addition, the employer may contribute an amount equal to the interest accruing for the period~~
11 of absence based on the salary as calculated in subsection (2)(a) and may pay interest on the employer's
12 contribution calculated in the same manner as interest on the employee's contribution under subsection
13 (2)(a). An employer electing to make ~~a contribution~~ an interest payment shall do so for all employees
14 similarly situated. If the employer elects not to pay the interest costs, this amount must be paid by the
15 employee.

16 (3) At some time after returning to covered service, a member shall file with the board a written
17 notice of the member's intent to pay the contributions under subsection (2).

18 (4) Payment of the employee's contributions that are due because of the period of absence may
19 be made in one sum at the time of filing the notice or on an installment basis before termination of covered
20 service.

21 (5) A member loses the right to contribute for an absence under this section if all of the member's
22 accumulated contributions are refunded pursuant to 19-2-602 or for the period of time during which
23 retirement benefits are received if the member retires during the absence."

24

25 **Section 15.** Section 19-3-511, MCA, is amended to read:

26 "**19-3-511. Transfer of service credits and contributions from teachers' retirement system.** (1) An
27 active member may at any time before retirement make a written election with the board to qualify in the
28 public employees' retirement system all of the member's service in the teachers' retirement system for
29 which the member either has received or is eligible to receive a refund.

30 (2) The amount that must be paid or transferred to the retirement system to qualify this service

1 under this section is the sum of subsections (2)(a) and ~~(3)~~ (2)(b), as follows:

2 ~~(2) In addition to the amounts directly paid or transferred by the member under subsection (3), the~~

3 (a) The teachers' retirement system shall transfer to the public employees' retirement system an
4 amount equal to 72% of the amount payable by the member.

5 ~~(3)(b)~~ The member shall pay either directly or by transferring contributions on account with the
6 teachers' retirement system an amount equal to the member's accumulated contributions at the time that
7 active membership was terminated with the teachers' retirement system, plus accrued interest. Interest
8 must be calculated from the date of termination until payment is received by the public employees'
9 retirement system, based on the interest tables in use by the teachers' retirement system.

10 ~~(4)(3)~~ The amount of service credit granted in subsection (1) must be on a month-by-month basis.
11 Military service credit transferred from the teachers' retirement system must be included in the 5-year
12 maximum military service credit provided for in 19-3-503.

13 ~~(5)(4)~~ Subject to the provisions of 19-2-403, the board is the sole authority in determining the
14 amount of service credit qualified under this section and the amount paid to the retirement system under
15 ~~subsections~~ subsection (2) and (3).

16 ~~(6)(5)~~ If an active member who also has service credit in the teachers' retirement system dies
17 before the member qualifies this service in the public employees' retirement system and if the service
18 credits from both systems, when combined, entitle the member's designated beneficiary to a survivorship
19 benefit, the payment of the survivorship benefit is the liability of the public employees' retirement system.
20 Before payment of the survivorship benefit, the teachers' retirement board shall transfer to the public
21 employees' retirement system the contributions necessary to qualify this service in the public employees'
22 retirement system as provided in ~~subsections~~ subsection (2) and (3).

23 (6) If the board determines that a member was erroneously classified and reported to the teachers'
24 retirement system, the member's accumulated contributions and service, together with the employer
25 contributions plus interest, must be transferred to the public employees' retirement system. Employee and
26 employer contributions due as calculated under 19-3-315 and 19-3-316 are the liability of the employee
27 and the employing entity, respectively, where the error occurred. For the period of time that the employer
28 contributions are held by the teachers' retirement system, interest paid on employer contributions
29 transferred under this subsection must be calculated at the short-term investment pool rate earned by the
30 board of investments in the fiscal year preceding the transfer request."

1 **Section 16.** Section 19-3-513, MCA, is amended to read:

2 **"19-3-513. Election to purchase additional service.** (1) At any time before retirement, a person
3 who became a member of the retirement system before July 1, 1989, and who has 5 years or more of
4 membership service may make a written election with the board to purchase additional service credit for
5 the purpose of calculating the member's retirement benefit. Except as provided in subsection (3), the
6 member may purchase 1 year of additional service credit for each 5 years of membership service that the
7 member has qualified under the retirement system, up to a maximum of 5 years of additional service.

8 (2) For each year of service credit purchased under this section, a member shall ~~contribute~~ make
9 additional contributions to the pension trust fund in an amount equal to the member's compensation for
10 the 12-month period ~~immediately~~ of full-time service most recently preceding the date on which the member
11 elects to purchase the service multiplied by the combined employee and employer contribution rates
12 contained in 19-3-315 and 19-3-316. ~~Contributions~~ Additional contributions may be made in a lump-sum
13 payment or ~~by making additional contributions~~ in installments as agreed upon by the member and the board.
14 Inactive members shall pay interest from the date of termination to the date of payment. Active members
15 shall pay interest from the date of contracting to the date of payment. The board shall set interest rates
16 and approve contracts.

17 (3) (a) Except as provided in subsection (3)(b), after January 1, 1990, a member may elect to
18 qualify a combined total of 5 years of service under 19-3-503, 19-3-512, or this section.

19 (b) A member who has purchased service under 19-3-503 or 19-3-512 on or before January 1,
20 1990, and who elects to purchase service under this section shall receive credit for the full months of
21 service purchased on or before January 1, 1990.

22 (4) Service purchased under this section is not membership service and may not be used to qualify
23 a member for service retirement."
24

25 **Section 17.** Section 19-3-1015, MCA, is amended to read:

26 **"19-3-1015. Medical examination of disability retiree -- cancellation and reinstatement.** (1) The
27 board may, in its discretion, require a disabled member to undergo a medical examination. The examination
28 must be made by a physician or surgeon appointed by the board, at a place mutually agreed upon by the
29 retired member and the board. Upon the basis of the examination, the board shall determine whether the
30 disabled member is unable, by reason of physical or mental incapacity, to perform the essential elements

1 of either the position held by the member when the member retired or the position proposed to be assigned
 2 to the member. If the board determines the member is not incapacitated or if the member refuses to submit
 3 to a medical examination, the member's retirement benefit must be canceled.

4 (2) If the board determines that a disabled member should no longer be subject to medical review,
 5 the board may grant service retirement status to the member without recalculating the monthly benefit. The
 6 board shall notify the member in writing as to the change in status. If the disabled member disagrees with
 7 the board's determination, the member may request the board to reconsider its action. The request for
 8 reconsideration must be made in writing within 60 days after receipt of the notice of the status change.

9 (3) A (a) Except as provided in subsections (3)(b) and (3)(c), a member whose disability retirement
 10 benefit is canceled because the board has determined that the member is no longer incapacitated must be
 11 reinstated to the position held by the member immediately before the member's retirement or to a position
 12 in the same classification a comparable pay and benefit category with duties within the member's capacity
 13 if the member was an employee of the state or of the university. If the member was an employee of a
 14 contracting employer, the board shall notify the proper official of the contracting employer that the disability
 15 retirement benefit has been canceled and that the former employee is eligible for reinstatement to duty. The
 16 fact that the former employee was retired for disability may not prejudice any right to reinstatement to duty
 17 that the former employee may have or claim to have.

18 (b) A member who is employed by an employer terminates any right to reinstatement provided by
 19 this section.

20 (c) This section does not affect any requirement that the former employee meet or be able to meet
 21 professional certification and licensing standards unrelated to the disability and necessary for reinstatement
 22 to duty.

23 (4) If a member whose disability retirement benefit is canceled is not reemployed in a position
 24 subject to the retirement system, the member's service is considered, for the purposes of 19-2-602, to
 25 have been discontinued coincident with the commencement of the member's retirement benefit."
 26

27 **Section 18.** Section 19-3-1104, MCA, is amended to read:

28 **"19-3-1104. Cancellation of disability retirement benefit upon reemployment. Any A** person
 29 receiving a disability retirement benefit who becomes an employee is considered reinstated to service from
 30 retirement, and the person's disability retirement benefit is must be canceled."

1 **Section 19.** Section 19-3-1601, MCA, is amended to read:

2 "**19-3-1601. Eligibility for postretirement adjustment.** (1) Except as provided in subsection (2), a
3 benefit recipient is eligible to receive a postretirement adjustment as provided in 19-3-1603 if the person
4 is receiving a:

5 (a) monthly service retirement benefit, ~~and is 55 years of age or older on or before June 30 in the~~
6 ~~year that the postretirement adjustment is made; or~~

7 (b) disability retirement benefit, or survivorship benefit.

8 (2) A benefit recipient is ineligible to receive a postretirement adjustment under subsection (1)
9 unless the recipient has been receiving a monthly service, disability, or survivorship benefit for at least 24
10 consecutive months on or before June 30 in the year the adjustment is made."

11

12 **Section 20.** Section 19-5-103, MCA, is amended to read:

13 "**19-5-103. Call of retired judge for duty.** (1) Every judge or justice who has voluntarily retired after
14 8 years of service ~~shall~~ must, if physically and mentally able, be subject to call for duty by the supreme
15 court or the chief justice to aid and assist the supreme court, any district court, or any water court under
16 directions as the supreme court may give, including the examination of the facts, cases, and authorities
17 cited, and the preparation of opinions for and on behalf of the supreme court, district court, or water court,
18 or to serve as water judge. The opinions, when and if and to the extent approved by the court, may by the
19 court be ordered to constitute the opinion of the court. The court and the retired judge or justice may,
20 subject to any rule that the supreme court may adopt, perform any ~~and all~~ duties preliminary to the final
21 disposition of cases that are not inconsistent with the constitution of the state.

22 (2) A retired judge or justice, when called to ~~service~~ duty, must be reimbursed for actual expenses,
23 if any, in responding to the call. In addition, for each day of ~~service~~ duty, a retired justice or judge is
24 entitled to receive compensation in an amount equal to one-twentieth of the monthly salary then currently
25 applicable to the judicial position in which the ~~service~~ duty is rendered minus an amount equal to
26 one-twentieth of the monthly retirement benefit that the retired justice or judge is receiving, if any, for each
27 day of ~~service~~ duty rendered."

28

29 **Section 21.** Section 19-5-601, MCA, is amended to read:

30 "**19-5-601. Disability retirement benefit.** In case of the disability of a member, a disability

1 retirement benefit must be granted the member in an amount actuarially equivalent to the service retirement
 2 benefit standing to the member's credit at the time of the member's disability retirement. If the disability
 3 is a direct result of any service ~~to~~ or duty for the Montana judiciary ~~in the line of duty~~, the member must
 4 receive a member's total benefit must equal ~~to~~ one-half of the member's final current salary or the benefit
 5 provided in 19-5-502, whichever is greater."

6
 7 **Section 22.** Section 19-5-801, MCA, is amended to read:

8 **"19-5-801. Payments upon employment-related death.** If the board finds that a member died as
 9 a direct and proximate result of injury received in the course of the member's service or duty, a survivorship
 10 benefit must be paid to the member's designated beneficiary. The survivorship benefit is the greater of the
 11 actuarial equivalent of a member's service retirement benefit provided for in 19-5-502 standing to the
 12 member's credit on the date of death or of the contingent annuitant's benefit, if applicable. "

13
 14 **Section 23.** Section 19-6-501, MCA, is amended to read:

15 **"19-6-501. Eligibility and application for service retirement benefit — commencement of benefit.**

16 (1) ~~(a)~~ A member first employed by the Montana highway patrol on or before July 1, 1985, is eligible to
 17 receive a service retirement benefit after completing 20 years or more of membership service and
 18 terminating service.

19 ~~(b)~~(2) A member first employed by the Montana highway patrol after July 1, 1985, is eligible to
 20 receive a service retirement benefit when the member has reached age 50, completed 20 years or more
 21 of membership service, and terminated service.

22 ~~(2) A member eligible to receive a retirement benefit, as provided in subsection (1), shall apply in~~
 23 ~~writing to the division.~~

24 ~~(3) (a) Except as provided in subsection (3)(b), the retirement benefit may commence on the first~~
 25 ~~day of the month following the member's last day of covered service or, if requested by the inactive~~
 26 ~~member in writing, on the first day of the month following receipt of the written application.~~

27 ~~(b) The retirement benefit for an eligible member who has terminated service must commence no~~
 28 ~~later than the first day of the month following the member's 60th birthday."~~

29
 30 **Section 24.** Section 19-6-612, MCA, is amended to read:

1 **"19-6-612. Medical examination of disability retiree -- cancellation of benefit.** (1) The board may
 2 require the recipient of a disability retirement benefit to undergo a medical examination. The examination
 3 must be made by a physician or surgeon at the recipient's place of residence or at another place mutually
 4 agreed on, at the board's expense. Upon the basis of the examination, the board shall determine whether
 5 the recipient can perform the essential elements of the position held by the recipient when the recipient
 6 retired. If the board determines that the recipient is not incapacitated, the recipient's disability retirement
 7 benefit must be canceled when the recipient is offered a position under subsection (3) or when, if a position
 8 is available, the recipient cannot be reinstated under subsection (3) for reasons unrelated to the disability.
 9 If the recipient refuses to submit to a medical examination, the recipient's disability retirement benefit must
 10 be canceled.

11 (2) If the board determines that a recipient of a disability retirement benefit should no longer be
 12 subject to medical review, the board may grant a service retirement status to the recipient without
 13 recalculating the recipient's monthly benefit. The board shall notify the recipient in writing as to the change
 14 in status. If the recipient disagrees with the board's determination, the recipient may request the board to
 15 reconsider its action. The request for reconsideration must be made in writing within 60 days after receipt
 16 of the notice of the status change.

17 (3) ~~A~~ (a) Except as provided in subsection (3)(b), a recipient whose disability retirement benefit
 18 is canceled because the board has determined that the recipient is no longer incapacitated must be
 19 reinstated to the position held by the recipient immediately before the recipient's retirement or to a position
 20 ~~in the same classification~~ a comparable pay and benefit category within the recipient's capacity, whichever
 21 is first open. The fact that the recipient was retired for disability may not prejudice any right to
 22 reinstatement to duty that the recipient may have or claim to have.

23 (b) This section does not affect any requirement that the former employee meet or be able to meet
 24 professional certification and licensing standards unrelated to the disability and necessary for reinstatement
 25 to duty.

26 (4) The department of justice may request a medical or psychological review as to the ability of
 27 the recipient to return to work as a member of the highway patrol. If the board's findings are upheld, the
 28 department of justice shall pay the cost of the review."

29

30 **Section 25.** Section 19-7-501, MCA, is amended to read:

1 **"19-7-501. Eligibility and application for service retirement -- commencement of benefit.** ~~(1)~~ A
 2 member who has completed at least 20 years of membership service may retire on a service retirement
 3 benefit.

4 ~~(2) A member electing to retire shall apply in writing to the board.~~

5 ~~(3) (a) Except as provided in subsections (3)(b) and (3)(c), the retirement benefit may commence~~
 6 ~~on the first day of the month following the member's last day of service or, if requested by the inactive~~
 7 ~~member in writing, on the first day of the month following receipt of the written application.~~

8 ~~(b) The retirement benefit for an eligible inactive member must commence no later than the first~~
 9 ~~day of the month following the member's 65th birthday.~~

10 ~~(c) If an elected official's term of office expires before the 15th day of the month, the official may~~
 11 ~~elect to retire on the first day of the last month of the term of office. An official electing this option may~~
 12 ~~not earn service or compensation for purposes of final average salary under the retirement system in that~~
 13 ~~month, and compensation earned in that month is not subject to employer or member contributions."~~

14

15 **Section 26.** Section 19-7-612, MCA, is amended to read:

16 **"19-7-612. Medical examination of disability retiree -- cancellation of benefit.** (1) The board, in
 17 its discretion, may require the recipient of a disability retirement benefit to undergo a medical examination.
 18 The examination must be made by a physician or surgeon at the recipient's place of residence or at another
 19 place mutually agreed on, at the board's expense. Upon the basis of the examination, the board shall
 20 determine, by reason of physical or mental capacity, whether the recipient can perform the essential
 21 elements of the position held by the recipient when the recipient was retired. If the board determines that
 22 the recipient is not incapacitated, the recipient's disability retirement benefit must be canceled when the
 23 recipient is offered a position under subsection (2) or when, if a position is available, the recipient cannot
 24 be reinstated under subsection (2) for reasons unrelated to the disability. If the recipient refuses to submit
 25 to a medical examination, the recipient's disability retirement benefit must be canceled when the recipient
 26 is notified of the determination of the board.

27 (2) A (a) Except as provided in subsection (2)(b), a person other than an elected official whose
 28 disability retirement benefit is canceled because the person is no longer incapacitated must be reinstated
 29 to the position held by the person immediately before the person's retirement or to a position in ~~the same~~
 30 ~~classification~~ a comparable pay and benefit category within the person's capacity, whichever is first open.

1 The fact that the person was retired for disability may not prejudice any right to reinstatement to duty that
 2 the person may have or claim to have.

3 (b) This section does not affect any requirement that the former employee meet or be able to meet
 4 professional certification and licensing standards unrelated to the disability and necessary for reinstatement.

5 (3) The public body required to reinstate a person under subsection (2) may request a medical or
 6 psychological review as to the ability of the member to return to work as a member of the sheriff's
 7 department. If the board's findings are upheld, the public body shall pay the cost of the review."
 8

9 **Section 27.** Section 19-7-708, MCA, is amended to read:

10 **"19-7-708. Eligibility for postretirement adjustment.** (1) Except as provided in subsection (2), a
 11 benefit recipient is eligible to receive a postretirement adjustment as provided in 19-7-710 if the recipient
 12 is receiving a:

13 ~~(a) monthly service retirement benefit, and is 55 years of age or older on or before June 30 in the~~
 14 ~~year that the postretirement adjustment is made; or~~

15 ~~(b) disability retirement benefit, or survivorship benefit.~~

16 (2) A benefit recipient is ineligible to receive a postretirement adjustment under subsection (1)
 17 unless the monthly service, disability, or survivorship benefit has been paid for at least 24 consecutive
 18 months on or before June 30 in the year the adjustment is made."
 19

20 **SECTION 28. SECTION 19-7-801, MCA, IS AMENDED TO READ:**

21 **"19-7-801. Membership in municipal police officers' retirement system prior to or following**
 22 **city-county consolidation -- payment of benefits by two systems.** (1) A law enforcement officer who has
 23 not changed employment but who has, because of a city-county consolidation, been transferred either from
 24 a city police force to a county sheriff's department or from a county sheriff's department to a city police
 25 force as a law enforcement officer is eligible for a service retirement benefit if the officer's combined service
 26 in the sheriffs' retirement system and the municipal police officers' retirement system satisfies the minimum
 27 membership service requirement of the system to which the officer last made contributions. A member who
 28 has elected to continue membership in the public employees' retirement system under 19-7-301 may
 29 continue the election. However, credit for service in the public employees' retirement system that has not
 30 been transferred prior to January 1, 1979, may not be transferred.

1 (2) Eligibility for and calculation of disability retirement, death benefits, and refund of contributions
2 are governed by the provisions of the retirement system to which the officer last made contributions.

3 (3) The service retirement benefit of a member described in subsection (1) must be calculated
4 separately for each system based on the service credited under each system. The calculation for the
5 sheriffs' retirement system portion of the benefit must include the appropriate reduction in the retirement
6 benefit for an optional retirement benefit elected under 19-7-1001. The final salary or final average salary
7 for each calculation must be based on the highest compensation earned while a member of either system.
8 Each system shall pay its proportionate share, based on the number of years of service credited, of the
9 combined benefit. ~~The combined benefit may not exceed 60% of the member's final salary or final average~~
10 ~~salary.~~

11 (4) Upon the death of a retired member receiving a service retirement benefit under this section,
12 the survivor or contingent annuitant and the continuing benefit must be determined separately for each
13 system as follows:

14 (a) For the municipal police officers' retirement system portion of the benefit, the surviving spouse
15 must receive a benefit equal to the municipal police officers' retirement system portion of the service
16 retirement benefit as calculated at the time of the member's retirement. If the retired member leaves no
17 surviving spouse or upon the death of the surviving spouse, the retired member's surviving dependent child,
18 or children collectively if there are more than one, shall receive the same monthly benefits that a surviving
19 spouse would receive for as long as the child or one of the children remains dependent as defined in
20 19-9-104. The benefits must be made to the child's appointed guardian for the child's use. If there is more
21 than one dependent child, upon each child no longer qualifying as dependent under 19-9-104, the pro rata
22 benefits to that child must cease and be paid to the remaining children until all the children are no longer
23 dependent.

24 (b) For the sheriffs' retirement system portion of the benefit:

25 (i) the contingent annuitant must receive a continuing benefit as determined under 19-7-1001, if
26 the retired member elected an optional retirement benefit; or

27 (ii) if the retired member did not elect an optional retirement benefit, any payment owed the retired
28 member, including the excess, if any, of the retired member's accumulated contributions standing to the
29 retired member's credit at the time of retirement less payments made to the retired member must be paid
30 to the retired member's designated beneficiary."

1 **Section 29.** Section 19-8-601, MCA, is amended to read:

2 "19-8-601. **Time of retirement -- commencement of benefit.** ~~(1) Any~~ A member in service who has
3 completed at least 20 years of membership service, reached the age of 50 years, and terminated service
4 may retire with a service retirement benefit upon written application to the board.

5 ~~(2) (a) Except as provided in subsection (2)(b), the retirement benefit may commence on the first~~
6 ~~day of the month following the member's last day of service or, if requested by the inactive member in~~
7 ~~writing, on the first day of the month following receipt of the written application.~~

8 ~~(b) The retirement benefit for an eligible inactive member must commence no later than the first~~
9 ~~day of the month following the member's 60th birthday."~~

10

11 **Section 30.** Section 19-8-712, MCA, is amended to read:

12 "19-8-712. **Medical examination of disability retiree -- cancellation of benefit.** (1) The board, in
13 its discretion, may require the recipient of a disability retirement benefit to undergo a medical examination.
14 The examination must be made by a physician or surgeon at the recipient's place of residence or at another
15 place mutually agreed on, at the board's expense. Upon the basis of the examination, the board shall
16 determine, by reason of physical or mental capacity, whether the recipient can perform the essential
17 elements of the position held by the recipient when the recipient retired. If the board determines that the
18 recipient is not incapacitated, the recipient's disability retirement benefit must be canceled when the
19 recipient is offered a position under subsection (3) or when, if a position is available, the recipient cannot
20 be reinstated under subsection (3) for reasons unrelated to the disability. If the recipient refuses to submit
21 to a medical examination, the recipient's disability retirement benefit must be canceled when the recipient
22 is notified of the determination of the board.

23 (2) If the board determines that a recipient of a disability retirement benefit should no longer be
24 subject to medical review, the board may grant a service retirement status to the recipient without
25 recalculating the recipient's monthly benefit. The board shall notify the recipient in writing as to the change
26 in status. If the recipient disagrees with the board's determination, the recipient may request the board to
27 reconsider its action. The request for reconsideration must be made in writing within 60 days after receipt
28 of the notice of the status change.

29 (3) ~~A~~ (a) Except as provided in subsection (3)(b), a recipient whose disability retirement benefit is
30 canceled because the board has determined that the recipient is no longer incapacitated must be reinstated

1 to the position held by the recipient immediately before the recipient's retirement or to a position in ~~the~~
 2 ~~same classification~~ a comparable pay and benefit category within the recipient's capacity, whichever is first
 3 open. The fact that the recipient was retired for disability may not prejudice any right to reinstatement to
 4 duty that the recipient may have or claim to have.

5 (b) This section does not affect any requirement that the former employee meet or be able to meet
 6 professional certification and licensing standards unrelated to the disability and necessary for reinstatement.

7 (4) The department of fish, wildlife, and parks may request a medical or psychological review as
 8 to the ability of the recipient to return to work as a game warden. If the board's findings are upheld, the
 9 department of fish, wildlife, and parks shall pay the cost of the review."

10

11 **Section 31.** Section 19-8-1101, MCA, is amended to read:

12 "**19-8-1101. Eligibility for postretirement adjustment.** (1) Except as provided in subsection (2), a
 13 benefit recipient is eligible to receive a postretirement adjustment as provided in 19-8-1103 if the recipient
 14 is receiving a:

15 ~~(a) monthly service retirement benefit, and is 55 years of age or older on or before June 30 in the~~
 16 ~~year that the postretirement adjustment is made; or~~

17 ~~(b) disability retirement benefit, or survivorship benefit.~~

18 (2) A benefit recipient is ineligible to receive a postretirement adjustment under subsection (1)
 19 unless the monthly service, disability, or survivorship benefit has been paid for at least 24 consecutive
 20 months on or before June 30 in the year the adjustment is made."

21

22 **Section 32.** Section 19-9-801, MCA, is amended to read:

23 "**19-9-801. Eligibility for service retirement —~~commencement of benefit.~~** (1) Members are eligible
 24 for retirement as provided in this section.

25 (2) A member is eligible to receive a service retirement benefit when the member has completed
 26 20 years or more of membership service and has terminated service.

27 (3) A member who terminates service after completing at least 10 years of membership service
 28 but prior to completing 20 years of membership service is eligible to receive a service retirement benefit
 29 when the member has reached 50 years of age.

30 ~~(4) (a) Except as provided in subsection (4)(b), the retirement benefit may commence on the first~~

1 ~~day of the month following the member's minimum retirement date or, if requested by the inactive member~~
 2 ~~in writing, on the first day of the month following receipt of the written application.~~

3 ~~(b) The retirement benefit for an eligible inactive member must commence no later than the first~~
 4 ~~day of the month following the member's 55th birthday."~~

5

6 **Section 33.** Section 19-9-904, MCA, is amended to read:

7 "**19-9-904. Termination of disability benefit.** The board, in its discretion, may require the recipient
 8 of a disability retirement benefit to undergo a medical examination. The examination must be made by a
 9 physician or surgeon at the recipient's place of residence or at another place mutually agreed on, at the
 10 board's expense. Upon the basis of the examination, the board shall determine, by reason of physical or
 11 mental capacity, whether the recipient can perform the essential elements of the position held by the
 12 recipient when the recipient was retired. If an inactive member is determined by the board to be no longer
 13 disabled, the inactive member's disability retirement benefit must be canceled when the inactive member
 14 is offered a position under 19-9-905 or when, if a position is available, the former employee could not be
 15 reinstated under 19-9-905 for reasons unrelated to the disability. If the inactive member refuses to submit
 16 to a medical examination, the inactive member's disability retirement benefit must cease as of the date of
 17 the determination. The inactive member must be notified of the determination by the board. The board may
 18 review the status of an inactive member at any time."

19

20 **Section 34.** Section 19-9-905, MCA, is amended to read:

21 "**19-9-905. Reinstatement upon termination of disability benefit.** (1) ~~A~~ (a) Except as provided in
 22 subsection (1)(b), a retired member whose disability retirement benefit is cancelled as provided in 19-9-904
 23 must be reinstated to the position held by the member immediately before retirement or to a position in the
 24 same classification a comparable pay and benefit category with duties within the member's capacity,
 25 whichever is first open. The board shall advise the employer that the disability retirement benefit has been
 26 cancelled and that the member is eligible for reinstatement to duty. The fact that the member was retired
 27 for disability may not prejudice any right to reinstatement to duty that the member may have or claim to
 28 have.

29 (b) This section does not affect any requirement that the former employee meet or be able to meet
 30 professional certification and licensing standards unrelated to the disability and necessary for reinstatement.

1 (2) The city may request a medical or psychological review as to the ability of the member to return
2 to work as a police officer. If the board's findings are upheld, the city shall pay the costs of the review.

3 (3) If the retired member again becomes an active member by returning to service with an employer
4 within 30 days following receipt of notice under 19-9-904, the member must be considered to have been
5 continuously employed during the term of the member's disability. If the retired member fails to become
6 an active member by returning to service with an employer within 30 days following receipt of the notice,
7 the member's termination of service is considered to have occurred as of the member's disability retirement
8 date and the retirement benefit, if any, to which the member becomes entitled on the member's service
9 retirement date must be determined accordingly."
10

11 **Section 35.** Section 19-13-701, MCA, is amended to read:

12 "**19-13-701. Eligibility for service retirement -- commencement of benefit.** (1) A member who has
13 completed 20 years or more of membership service is eligible for service retirement ~~commencing on the first~~
14 ~~day of the month following the member's last day of service.~~

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

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

22
23 **Section 36.** Section 19-13-804, MCA, is amended to read:

24 "**19-13-804. Medical examination of disability retiree -- cancellation of benefit.** (1) The board, in
25 its discretion, may require the recipient of a disability retirement benefit to undergo a medical examination
26 at the board's expense. The examination must be made by a physician or surgeon at the recipient's place
27 of residence or at another place mutually agreed on. Based on the results of the examination, the board
28 shall determine whether the recipient has the physical or mental capacity to perform the essential elements
29 required by the recipient's former position. If the board determines that the recipient is not incapacitated,
30 ~~or~~ if the recipient refuses to submit to a medical examination, or if, when a position is available, the

1 recipient cannot be reinstated under 19-13-805 for reasons unrelated to the disability, the recipient's
 2 disability retirement benefit must be canceled. The board shall notify the recipient of this determination and
 3 the cancellation of the recipient's benefit.

4 (2) The cancellation of a disability retirement benefit because a member is no longer incapacitated
 5 does not prejudice any right of the member to a service retirement benefit."
 6

7 **Section 37.** Section 19-13-805, MCA, is amended to read:

8 **"19-13-805. Reinstatement upon termination of benefit.** (1) (a) ~~An inactive~~ Except as provided
 9 in subsection (1)(c), a member whose disability retirement benefit is canceled as provided in 19-13-804
 10 must be reinstated to the position held by the member immediately before the member's retirement or to
 11 a position in ~~the same classification~~ a comparable pay and benefit category with duties within the member's
 12 capacity if an appropriate vacancy exists within the member's fire department. The board shall advise the
 13 employer that the disability retirement benefit has been canceled and that the inactive member is eligible
 14 for reinstatement to duty. The fact that the member was retired for disability may not prejudice any right
 15 to reinstatement to duty that the inactive member may have or claim to have.

16 (b) If an appropriate vacancy does not exist within an inactive member's fire department when the
 17 member's disability benefit is canceled under 19-13-804, the member's benefit must be reinstated until a
 18 vacancy occurs.

19 (c) This section does not affect any requirement that the former employee meet or be able to meet
 20 professional certification and licensing standards unrelated to the disability and necessary for reinstatement.

21 (2) The city may request a medical or psychological review as to the ability of the member to return
 22 to work as a firefighter. If the board's findings are upheld, the city shall pay the costs of the review.

23 (3) If the inactive member again becomes an active member by returning to active work for an
 24 employer within 30 days following receipt of notice under 19-13-804, the member is considered to have
 25 been continuously employed during the term of the member's disability. If the inactive member fails to
 26 become an active member by returning to active work for an employer within 30 days following receipt of
 27 this notice, the member's termination of employment is considered to have occurred as of the member's
 28 disability retirement date and the retirement benefit, if any, to which the member becomes entitled on the
 29 member's service retirement must be determined accordingly."
 30

1 **Section 38.** Section 19-17-102, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

16 (9) "Fire company" means a fire company organized in an unincorporated area, town, or village in
17 accordance with 7-33-2311.

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

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

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

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

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

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

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

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

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

5

6 NEW SECTION. **Section 39. Repealer.** Sections 19-3-903 and 19-3-1006, MCA, are repealed.

7

8 NEW SECTION. **Section 40. Codification instruction.** (1) [Section 1] is intended to be codified as
9 an integral part of Title 19, chapter 2, part 10, and the provisions of Title 19, chapter 2, part 10, apply to
10 [section 1].

11 (2) [Section 2] is intended to be codified as an integral part of Title 19, chapter 8, part 9, and the
12 provisions of Title 19, chapter 8, part 9, apply to [section 2].

13 (3) [Section 3] is intended to be codified as an integral part of Title 19, chapter 2, part 9, and the
14 provisions of Title 19, chapter 2, part 9, apply to [section 3].

15

16 NEW SECTION. **Section 41. Retroactive applicability.** [Section 15] applies retroactively, within
17 the meaning of 1-2-109, to the period beginning January 1, 1995.

18

19 NEW SECTION. **Section 42. Effective date.** [This act] is effective on passage and approval.

20

-END-

OFFICE OF THE GOVERNOR

STATE OF MONTANA

MARC RACICOT
GOVERNOR



STATE CAPITOL
HELENA, MONTANA 59620-0801

April 2, 1997

The Honorable Gary Aklestad
President of the Senate
State Capitol
Helena MT 59620

The Honorable John Mercer
Speaker of the House
State Capitol
Helena MT 59620

Dear President Aklestad and Speaker Mercer:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return Senate Bill 124, **"AN ACT GENERALLY REVISING THE LAWS ADMINISTERED BY THE PUBLIC EMPLOYEES' RETIREMENT BOARD; PROVIDING THAT FEDERAL TAX LAWS GOVERNING QUALIFICATION OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEMS SUPERSEDE CONFLICTING STATE STATUTES; GIVING THE BOARD RULEMAKING AUTHORITY; DEFINING "STATUTORY BENEFICIARY" AND "TERMINATION OF EMPLOYMENT" OR "TERMINATION OF SERVICE"; ALLOWING MEMBERS OF THE GAME WARDENS' RETIREMENT SYSTEM TO QUALIFY PERIODS OF ABSENCE FROM COVERED EMPLOYMENT BECAUSE OF SERVICE-CONNECTED INJURY OR ILLNESS; CLARIFYING CERTAIN SERVICE CREDIT PROVISIONS; ALLOWING MAILINGS FOR CERTAIN NONPROFIT ORGANIZATIONS; CLARIFYING CERTAIN DEFINITIONS; REVISING CERTAIN PROVISIONS RELATED TO FAMILY LAW ORDERS; REVISING CERTAIN OPTIONAL MEMBERSHIP PROVISIONS; REVISING PROVISIONS RELATED TO THE TRANSFER OF SERVICE FROM THE TEACHERS' RETIREMENT SYSTEM; CLARIFYING BENEFIT COMMENCEMENT DATES FOR ALL SYSTEMS; ALLOWING CANCELLATION OF DISABILITY BENEFITS AND AN EXCEPTION TO REINSTATEMENT PROVISIONS; REVISING CERTAIN PROVISIONS RELATED TO BENEFICIARY DESIGNATION AND SURVIVOR BENEFIT OPTIONS; AMENDING**

SECTIONS 2-6-109, 19-2-303, 19-2-701, 19-2-702, 19-2-704, 19-2-801, 19-2-802, 19-2-907, 19-3-401, 19-3-412, 19-3-504, 19-3-511, 19-3-513, 19-3-1015, 19-3-1104, 19-3-1601, 19-5-103, 19-5-601, 19-5-801, 19-6-501, 19-6-612, 19-7-501, 19-7-612, 19-7-708, 19-7-801, 19-8-601, 19-8-712, 19-8-1101, 19-9-801, 19-9-904, 19-9-905, 19-13-701, 19-13-804, 19-13-805, AND 19-17-102, MCA; REPEALING SECTIONS 19-3-903 AND 19-3-1006, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

Senate Bill 124 generally revises public retirement laws. Amendments, which were inadvertently left off the bill during its drafting, are necessary to coordinate it with House Bill 170, which establishes a guaranteed annual benefit adjustment for certain benefit recipients in the public employee retirement systems.

Specifically, if House Bill 170 passes, it will eliminate the post retirement adjustments for the Public Employees' Retirement System, the Sheriffs' Retirement System and the Game Wardens' Retirement System; therefore, the amendments to these laws contained in Senate Bill 124 are no longer necessary. In addition, since both bills make changes to the benefits paid through the Judges' Retirement System, instructions to the codifier are necessary if both bills become law.

The coordinating amendments have no fiscal impact.

It is my understanding that Senator Christiaens, the sponsor of the bill, understands the need for and is supportive of these amendments.

Sincerely,



MARC RACICOT
Governor

GOVERNOR'S AMENDMENT TO
Senate Bill No. 124
(Reference Copy)
April 2, 1997

1. Page 30.
Following: line 14
Insert:

"NEW SECTION. Section 41. Coordination instructions. (1) If House Bill No. 170 is passed and approved and if it amends 19-3-513, then [section 16 of this act], amending 19-3-513, is void.

(2) If House Bill No. 170 is passed and approved and if it repeals 19-3-1601, 19-7-708, and 19-8-1101, regarding eligibility for postretirement adjustments, and if [this act] is passed and approved, then [sections 19, 27, and 31 of this act], amending 19-3-1601, 19-7-708, and 19-8-1101, are void.

(3) If House Bill No. 170 is passed and approved and if it amends 19-5-601, then [section 21 of this act] amending 19-5-601, is void and [section 16 of House Bill No. 170] must read:

"Section 16. 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~~ or duty for the Montana judiciary ~~in the line of duty~~, ~~the member must receive a benefit equal to member's disability retirement benefit must be:~~

(1) the greater of one-half of the member's final current salary or the benefit provided in 19-5-502, whichever is greater the contingent annuitant's benefit, if applicable, for a person not covered under [section 2]; or

(2) the greater of one-half of the member's final average salary or the contingent annuitant's benefit, if applicable, for a person covered under [section 2]."

Renumber: subsequent sections

SB124

SENATE BILL NO. 124

INTRODUCED BY CHRISTIAENS

BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS ADMINISTERED BY THE PUBLIC EMPLOYEES' RETIREMENT BOARD; PROVIDING THAT FEDERAL TAX LAWS GOVERNING QUALIFICATION OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEMS SUPERSEDE CONFLICTING STATE STATUTES; GIVING THE BOARD RULEMAKING AUTHORITY; DEFINING "STATUTORY BENEFICIARY" AND "TERMINATION OF EMPLOYMENT" OR "TERMINATION OF SERVICE"; ALLOWING MEMBERS OF THE GAME WARDENS' RETIREMENT SYSTEM TO QUALIFY PERIODS OF ABSENCE FROM COVERED EMPLOYMENT BECAUSE OF SERVICE-CONNECTED INJURY OR ILLNESS; CLARIFYING CERTAIN SERVICE CREDIT PROVISIONS; ALLOWING MAILINGS FOR CERTAIN NONPROFIT ORGANIZATIONS; CLARIFYING CERTAIN DEFINITIONS; ~~PROVIDING THAT~~ REVISING CERTAIN PROVISIONS RELATED TO FAMILY LAW ORDERS MAY NOT BE ENTERED UNLESS CERTAIN PROVISIONS ARE APPROVED BY THE BOARD; REVISING CERTAIN OPTIONAL MEMBERSHIP PROVISIONS; REVISING PROVISIONS RELATED TO THE TRANSFER OF SERVICE FROM THE TEACHERS' RETIREMENT SYSTEM; CLARIFYING BENEFIT COMMENCEMENT DATES FOR ALL SYSTEMS; ALLOWING CANCELLATION OF DISABILITY BENEFITS AND AN EXCEPTION TO REINSTATEMENT PROVISIONS; REVISING CERTAIN PROVISIONS RELATED TO BENEFICIARY DESIGNATION AND SURVIVOR BENEFIT OPTIONS; AMENDING SECTIONS 2-6-109, 19-2-303, 19-2-701, 19-2-702, 19-2-704, 19-2-801, 19-2-802, 19-2-907, 19-3-401, 19-3-412, 19-3-504, 19-3-511, 19-3-513, 19-3-1015, 19-3-1104, 19-3-1601, 19-5-103, 19-5-601, 19-5-801, 19-6-501, 19-6-612, 19-7-501, 19-7-612, 19-7-708, 19-7-801, 19-8-601, 19-8-712, 19-8-1101, 19-9-801, 19-9-904, 19-9-905, 19-13-701, 19-13-804, 19-13-805, AND 19-17-102, MCA; REPEALING SECTIONS 19-3-903 AND 19-3-1006, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [sections 1 and 3] give the public employees' retirement board authority to adopt administrative rules.

A fundamental purpose of the public employee retirement systems is to provide members with a



1 federal income tax-deferred retirement plan. To qualify for federally deferred income tax status, each
 2 retirement plan must conform with the requirements of section 401 of the Internal Revenue Code, which
 3 may be amended from time to time.

4 It is the intent of the legislature that Montana statutory provisions in conflict with section 401 of
 5 the Internal Revenue Code and related federal regulations and that would result in a retirement plan being
 6 disqualified are ineffective or must be interpreted so that the retirement plans may retain tax-deferred
 7 status.

8 It is the further intent of the legislature to clarify when a member of a retirement system becomes
 9 a retiree. The retirement date is the date on which the member accepts the first benefit payment. An
 10 inactive member who has not met all eligibility requirements for retirement, including proper submission of
 11 a written application for retirement benefits, should not be considered a "retiree" during the period of time
 12 before the member actually began receiving benefit payments, even though the member may later receive
 13 payments retroactive to an earlier commencement date. Because retirees may not earn membership service
 14 or purchase service credits in the retirement systems and active and inactive members may not receive
 15 benefit adjustments granted to current retirees, it is imperative to the actuarial soundness of the systems
 16 to clarify the retirement date of each member.

17

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

19

20 NEW SECTION. **Section 1. Retaining qualified plan status -- board rulemaking authority.** If a
 21 statutory provision affecting a retirement plan administered by the board conflicts with a qualification
 22 requirement in section 401 of the Internal Revenue Code and consequent federal regulations, the provision
 23 is either ineffective or must be interpreted to conform with the federal qualification requirements and allow
 24 the system to retain tax-deferred status. The board may adopt rules to implement this section.

25

26 NEW SECTION. **Section 2. Absence due to injury or illness.** (1) Time, not to exceed 5 years,
 27 during which a member is absent because of an injury or illness is considered membership service if, within
 28 1 year after the end of the absence, the injury or illness is determined to have arisen out of and in the
 29 course of the member's employment. However, the member may not earn service credits for the absence
 30 unless the member complies with subsections (2) through (4), in which case the absence is considered as

1 time spent in service for both service credits and membership service.

2 (2) (a) A member absent because of an employment-related injury entitling the member to workers'
3 compensation payments may, upon the member's return to service, contribute an amount equal to the
4 contributions that the member would have made on the basis of the member's compensation at the
5 commencement of the member's absence plus regular interest accruing from 1 year from the date after the
6 member returns to covered service to the date the member contributes for the period of absence.

7 (b) Whenever a member elects to contribute under subsection (2)(a), the employer shall contribute
8 employer contributions for the period of absence based on the salary as calculated in subsection (2)(a) and
9 may pay interest on the employer's contribution calculated in the same manner as interest on the
10 employee's contribution under subsection (2)(a). An employer electing to make an interest payment shall
11 do so for all employees similarly situated. If the employer elects not to pay the interest costs, this amount
12 must be paid by the employee.

13 (3) At some time after returning to covered service, a member shall file with the board a written
14 notice of the member's intent to pay the contributions under subsection (2).

15 (4) Payment of the employee's contributions due because of the period of absence may be made
16 in one sum at the time of filing the notice or on an installment basis before termination of covered service.

17 (5) A member loses the right to contribute for an absence under this section if all of the member's
18 accumulated contributions are refunded pursuant to 19-2-602 or for the period of time during which
19 benefits are received if the member retires during the absence.

20

21 **NEW SECTION. Section 3. Time of commencement of benefit.** (1) (a) The board shall grant a
22 benefit to any member, or the member's statutory or designated beneficiary, who has fulfilled all eligibility
23 requirements, terminated covered service, and filed the appropriate written application.

24 (b) A member may apply for retirement benefits before terminating covered service, but
25 commencement of the benefits must be as provided in this section.

26 (2) (a) Except as provided in subsection (2)(b), the service retirement benefit may commence on
27 the first day of the month following the eligible member's last day of membership service or, if requested
28 by the inactive member in writing, on the first day of a later month following receipt of the written
29 application.

30 (b) If an elected official's term of office expires before the 15th day of the month, the official may

1 elect that service retirement benefits commence on the first day of the month following the official's last
2 full month in office. An official electing this option may not earn membership service, service credit, or
3 compensation for purposes of calculating final average salary under the retirement system in the partial
4 month ending the official's term, and compensation earned in that partial month is not subject to employer
5 or employee contributions.

6 (3) The disability retirement benefit payable to a member must commence on the day following the
7 member's termination from service.

8 (4) Monthly survivorship benefits must commence on the day following the death of the member.

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

11

12 **Section 4.** Section 2-6-109, MCA, is amended to read:

13 **"2-6-109. Prohibition on distribution or sale of mailing lists -- exceptions -- penalty.** (1) Except as
14 provided in subsections (3) through (8), in order to protect the privacy of those who deal with state and
15 local government:

16 (a) an agency may not distribute or sell for use as a mailing list any list of persons without first
17 securing the permission of those on the list; and

18 (b) a list of persons prepared by the agency may not be used as a mailing list except by the agency
19 or another agency without first securing the permission of those on the list.

20 (2) As used in this section, "agency" means any board, bureau, commission, department, division,
21 authority, or officer of the state or a local government.

22 (3) Except as provided in 30-9-403, this section does not prevent an individual from compiling a
23 mailing list by examination of original documents or applications that are otherwise open to public
24 inspection.

25 (4) This section does not apply to the lists of registered electors and the new voter lists provided
26 for in 13-2-115 and 13-38-103, to lists of the names of employees governed by Title 39, chapter 31, or
27 to lists of persons holding driver's licenses provided for under 61-5-126.

28 (5) This section does not prevent an agency from providing a list to persons providing preclicensing
29 or continuing educational courses subject to Title 20, chapter 30, or specifically exempted from that
30 chapter as provided in 20-30-102, or subject to Title 33, chapter 17.

1 (6) This section does not apply to the right of access either by Montana law enforcement agencies
2 or, by purchase or otherwise, of public records dealing with motor vehicle registration.

3 (7) This section does not apply to a corporate information list developed by the secretary of state
4 containing the name, address, registered agent, officers, and directors of business, nonprofit, religious,
5 professional, and close corporations authorized to do business in this state.

6 (8) This section does not apply to the use by the public employees' retirement board of a mailing
7 list of board-administered retirement system participants to send materials on behalf of a ~~third party~~
8 RETIREE ORGANIZATION FORMED FOR BOARD-ADMINISTERED RETIREMENT SYSTEM PARTICIPANTS
9 AND with tax-exempt status under section ~~501(c)(3)~~ 501(c)(4) of the Internal Revenue Code, as amended,
10 for a fee determined by rules of the board, provided that the mailing list is not released to the ~~third party~~
11 ORGANIZATION.

12 (9) A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor."
13

14 **Section 5.** Section 19-2-303, MCA, is amended to read:

15 **"19-2-303. Definitions.** Unless the context requires otherwise, for each of the retirement systems
16 subject to this chapter, the following definitions apply:

17 (1) "Accumulated contributions" means the sum of all the regular and any additional contributions
18 made by a member in a system, together with the regular interest on the contributions.

19 (2) "Active member" means a member who is ~~an~~ a paid employee of an employer ~~and who,~~ is
20 making the required contributions ~~to the system based on the member's compensation paid by the~~
21 employer, and is properly reported to the division for the most current reporting period.

22 (3) "Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory
23 manner to represent the present value of the benefits to be derived from the additional service to be
24 credited based on the most recent actuarial valuation for the system and the age, years until retirement,
25 and current salary of the member.

26 (4) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the
27 1971 Group Annuity Mortality Table, with ages set back 4 years and an interest rate of 8% compounded
28 annually.

29 (5) "Actuarial liabilities" means the excess of the present value of all benefits payable under a
30 retirement system over the present value of future normal costs in that retirement system.

1 (6) "Actuary" means the actuary retained by the board in accordance with 19-2-405.

2 (7) "Additional contributions" means contributions made by a member to purchase various types
3 of optional service credit as allowed by the applicable retirement system.

4 (8) "Annuity" means equal and fixed payments for life that are the actuarial equivalent of a
5 lump-sum payment under a retirement system and as such are not benefits paid by a retirement system and
6 are not subject to periodic or one-time increases.

7 (9) "Benefit" means the service or disability retirement or survivorship benefit payment provided
8 by a retirement system.

9 (10) "Board" means the public employees' retirement board provided for in 2-15-1009.

10 (11) "Contingent annuitant" means a person designated to receive a continuing ~~annuity~~ monthly
11 benefit after the death of a retired member.

12 (12) "Credited service" or "service credit" means the periods of time for which the required
13 contributions have been made to a retirement system and that are used to calculate service or disability
14 retirement or survivorship benefits under a retirement system.

15 (13) "Department" means the department of administration.

16 (14) "Designated beneficiary" means the person designated by a member or payment recipient to
17 receive any survivorship benefits or lump-sum payments upon the death of the member or payment
18 recipient, including annuities derived from the benefits or payments.

19 (15) "Disability" means a total inability of the member to perform the member's duties by reason
20 of physical or mental incapacity. The disability must be incurred while the member is an active member and
21 must be one of permanent duration or of extended and uncertain duration, as determined by the board on
22 the basis of competent medical opinion.

23 (16) "Division" means the public employees' retirement division of the department of administration.

24 (17) "Employee" means a person who is employed by an employer in any capacity and whose salary
25 is paid by the employer.

26 (18) "Employer" means a governmental entity participating in a retirement system enumerated in
27 19-2-302 on behalf of its eligible employees.

28 (19) "Essential elements of the position" means fundamental job duties. An element may be
29 considered essential because of but not limited to the following factors:

30 (a) the position exists to perform the element;

1 (b) there are a limited number of employees to perform the element; or

2 (c) the element is highly specialized.

3 (20) "Fiscal year" means any year commencing with July 1 and ending the following June 30.

4 (21) "Inactive member" means a member who ~~has terminated service with an employer and has not~~
5 ~~withdrawn the member's accumulated contributions from the retirement system~~ is not an active or retired
6 member.

7 (22) "Member" means any person with accumulated contributions and service credited with a
8 retirement system or receiving a retirement benefit on account of the person's previous service credited
9 in a retirement system.

10 (23) "Membership service" or "years of service" means the periods of service that are used to
11 determine eligibility for retirement or other benefits.

12 (24) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost
13 method required to fund accruing benefits for members of a retirement system during any year in the future.
14 Normal cost does not include any portion of the supplemental costs of a retirement system.

15 (25) "Pension" means benefit payments for life derived from contributions to a system made from
16 state- or employer-controlled funds.

17 (26) "Pension trust fund" means a fund established to hold the contributions, income, and assets
18 of a retirement system in public trust.

19 (27) "Regular contributions" means contributions required from members under a retirement system.

20 (28) "Regular interest" means interest at the rate set from time to time by the board.

21 (29) "Retirement" or "retired" means the status of a member who has terminated from service ~~with~~
22 and has received and accepted a retirement benefit ~~under from~~ a retirement system.

23 (30) "Retirement benefit" means the periodic benefit payable ~~following~~ as a result of service, early,
24 or disability retirement under a retirement system. An annuity is not a retirement benefit.

25 (31) "Retirement system" or "system" means one of the public employee retirement systems
26 enumerated in 19-2-302.

27 (32) "Service" means employment of an employee in a position covered by a retirement system.

28 (33) "Statutory beneficiary" means the surviving spouse or dependent child or children of a member
29 of the highway patrol officers', municipal police officers' or firefighters' unified retirement systems who are
30 statutorily designated to receive benefits upon the death of the member.

1 ~~(34)~~ (34) "Supplemental cost" means an element of the total actuarial cost of a retirement system arising
 2 from benefits payable for service performed prior to the inception of the retirement system or prior to the
 3 date of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure to fund or
 4 otherwise recognize normal cost accruals or interest on supplemental costs. These costs are included in
 5 the unfunded actuarial liabilities of the retirement system.

6 ~~(34)(35)~~ (35) "Survivorship benefit" means payments for life to the statutory or designated beneficiary
 7 of a deceased member who died while in service under a retirement system.

8 ~~(35)(36)~~ (36) "Termination of employment" or "termination of service" means that the member has
 9 severed the employment relationship with the employer and has been paid all compensation due upon
 10 termination of employment, including but not limited to payment of accrued annual leave credits, as
 11 provided in 2-18-617, and payment of accrued sick leave credits, as provided in 2-18-618. For purposes
 12 of this subsection, compensation as a result of legal action, court order, appeal, or settlement to which the
 13 board was not party is not a payment due upon termination.

14 (37) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a retirement
 15 system's actuarial liabilities at any given point in time over the value of its cash and investments on that
 16 same date.

17 ~~(36)(38)~~ (38) "Vested member" or "vested" means a member or the status of a member who has
 18 attained the minimum membership service requirements to be eligible for retirement benefits under a
 19 retirement system.

20 ~~(37)(39)~~ (39) "Written application" means a written instrument duly executed and filed with the board
 21 and containing all information required by the board, including such proofs of age as the board considers
 22 necessary."
 23

24 **Section 6.** Section 19-2-701, MCA, is amended to read:

25 "**19-2-701. Service credit.** Subject to the provisions of chapters 3, 5 through 9, and 13 ~~of this~~
 26 ~~title~~, a member must receive 1 month of service credit for each full month of service under rules adopted
 27 by the board. Service credits must be used in calculating a retirement or survivorship benefit. A retired
 28 member is not eligible to earn service credit."

29

30 **Section 7.** Section 19-2-702, MCA, is amended to read:

1 **"19-2-702. Membership service.** A member who is not retired must receive membership service
 2 for all periods of service, regardless of hours worked or compensation received during that service. The
 3 service must be used to determine:

4 (1) whether a member is vested;

5 (2) when the member is eligible for early or normal service retirement or disability retirement; or

6 (3) the eligibility of beneficiaries for survivorship benefits."
 7

8 **Section 8.** Section 19-2-704, MCA, is amended to read:

9 **"19-2-704. Purchasing service credits allowed.** (1) Subject to the rules promulgated by the board,
 10 an eligible member may elect to contribute amounts in addition to the mandatory employee contributions
 11 required by the retirement system in which the member participates for the purpose of purchasing service
 12 credits as provided by the statutes governing the retirement system.

13 (2) A member eligible to qualify service under the provisions of 19-3-509, 19-3-511, 19-6-802,
 14 19-7-802, 19-8-902, 19-9-405, and 19-13-404 may, at any time prior to retirement, elect to transfer all
 15 or a portion of the member's accumulated contributions on deposit in a pension trust fund from which
 16 service is being transferred to the pension trust fund of another plan in which service is being credited. The
 17 transfer of contributions may include both taxed contributions and tax-deferred contributions and interest.
 18 However, if less than all of the accumulated contributions on deposit in a pension trust fund is being
 19 transferred, the transfer of taxed and tax-deferred amounts must be made on a proportionate basis, with
 20 the remainder refunded to the member. The transferring agency shall identify at the time of the transfer the
 21 taxed and tax-deferred amounts being transferred.

22 (3) Subject to any statutory provision establishing stricter limitations, only active or vested inactive
 23 members are eligible to purchase, qualify, or transfer service credits, membership service, or contributions."
 24

25 **Section 9.** Section 19-2-801, MCA, is amended to read:

26 **"19-2-801. Designation of beneficiary.** In the absence of any ~~statutorily designated persons~~
 27 statutory beneficiaries, the designated beneficiaries of a member are the natural persons, ~~charitable~~
 28 ~~organizations, or trusts for the benefit of natural living persons~~ that the member or payment recipient
 29 designates on the membership card or other form provided by the division. Unless otherwise provided by
 30 statute, a member or payment recipient may revoke the designation and name different designated

1 beneficiaries by filing with the board a new membership card ~~with the board~~ or other form provided by the
 2 division."

3

4 **Section 10.** Section 19-2-802, MCA, is amended to read:

5 **"19-2-802. Effect of no designation or no surviving designated beneficiary.** (1) If a living statutory
 6 or designated beneficiary, ~~existing charitable organization, or natural living person who is the beneficiary~~
 7 ~~of a trust is not designated~~ does not survive the member or payment recipient, the estate of the member
 8 or payment recipient is the designated beneficiary entitled to any lump-sum payment or retirement benefit
 9 accrued but not received prior to the statutory or designated beneficiary's death. If the estate would not
 10 be probated but for the amount due from the retirement system, all of the amount due, ~~including retirement~~
 11 ~~benefits accrued but not received prior to death~~, must be paid directly, without probate, to the surviving
 12 next of kin of the deceased or the guardians of the survivor's estate, share and share alike.

13 (2) Payment must be made in the same order in which the following groups are listed:

14 (a) husband or wife;

15 (b) children;

16 (c) father and mother;

17 (d) grandchildren;

18 (e) brothers and sisters; or

19 (f) nieces and nephews.

20 (3) A payment may not be made to a person included in any of the groups listed in subsection (2)
 21 if at the date of payment there is a living person in any of the groups preceding the group of which the
 22 person is a member, as listed. Payment must be made upon receipt from the person of an affidavit, upon
 23 a form supplied by the retirement division, that there are no living individuals in the groups preceding the
 24 group of which the person is a member and that the estate of the deceased will not be probated.

25 (4) The payment must be in full and complete discharge and acquittance of the board and system
 26 on account of the member's or payment recipient's death."

27

28 **Section 11.** Section 19-2-907, MCA, is amended to read:

29 **"19-2-907. Alternate payees -- family law orders.** (1) A participant in a retirement system may
 30 have the participant's rights modified or recognized by a family law order.

1 (2) For purposes of this section:

2 (a) "participant" means a member or an actual or potential beneficiary, survivor, or contingent
3 annuitant of a retirement system designated pursuant to Title 19, chapter 3, 5, 6, 7, 8, 9, 13, or 17; and

4 (b) "family law order" means a judgment, decree, or order of a court of competent jurisdiction
5 under Title 40 concerning child support, parental support, spousal maintenance, or marital property rights
6 that includes a transfer of all or a portion of a participant's payment rights in a retirement system to an
7 alternate payee in compliance with this section.

8 (3) A family law order must identify an alternate payee by full name, current address, and social
9 security number. An alternate payee's rights and interests granted in compliance with this section are not
10 subject to assignment, execution, garnishment, attachment, or other process. An alternate payee's rights
11 or interests may be modified only by a family law order amending the family law order that established the
12 right or interest.

13 (4) A family law order may not require:

14 (a) a type or form of benefit, option, or payment not available to the affected participant under the
15 appropriate retirement system; or

16 (b) an amount or duration of payment greater than that available to a participant under the
17 appropriate retirement system.

18 (5) A family law order may only provide for payment to an alternate payee as follows:

19 (a) Service retirement benefit payments or withdrawals of member contributions may be
20 apportioned by directing payment of a percentage of the amount payable or payment of a fixed amount of
21 no more than the amount payable to the participant.

22 (b) The maximum amount of disability or survivorship benefits that may be apportioned to alternate
23 payees is the monthly benefit amount that would have been payable on the date of termination of service
24 if the member had retired without disability or death. Conversion of a disability retirement to a service
25 retirement pursuant to 19-2-406(4), 19-3-1015(2), 19-6-612(2), or 19-8-712(2) does not increase the
26 maximum monthly amount that may be apportioned to an alternate payee.

27 (c) Retirement benefit adjustments for which a participant is eligible after retirement may be
28 apportioned only if existing benefit payments are apportioned. The adjustments must be apportioned in the
29 same ratio as existing benefit payments.

30 (d) Payments must be limited to the life of the appropriate participant. The duration of payments

1 to an alternate payee may be further limited only to a specified maximum time, the life of the alternate
 2 payee, or the life of a specified participant. Payments to an alternate payee may be limited to a specific
 3 amount per month if the number of payments is specified. The alternate payee's rights and interests survive
 4 the alternate payee's death and may be transferred by inheritance.

5 (e) The participant may be required to choose a specified form of benefit payment or designate a
 6 beneficiary or contingent annuitant if the retirement system allows for that option.

7 (6) The board may assess a participant or an alternate payee for all costs of reviewing and
 8 administering a family law order, including reasonable attorney fees. The board may adopt rules to
 9 implement this section.

10 ~~(7) A court may not enter a family law order unless terms of the proposed order that relate to~~
 11 ~~payments by the retirement system have been approved by the board~~ EACH FAMILY LAW ORDER
 12 ESTABLISHING A FINAL OBLIGATION CONCERNING PAYMENTS BY THE RETIREMENT SYSTEM MUST
 13 CONTAIN A STATEMENT THAT THE ORDER IS SUBJECT TO REVIEW AND APPROVAL BY THE BOARD."
 14

15 **Section 12.** Section 19-3-401, MCA, is amended to read:

16 "**19-3-401. Membership -- inactive vested members -- inactive nonvested members.** (1) Except
 17 as otherwise provided in this chapter, all ~~eligible~~ employees shall become members on the first day of
 18 ~~covered employment service~~. Each ~~eligible employee employer~~ shall file with the board information affecting
 19 ~~the employee's~~ their employees' status as a ~~member~~ members of the retirement system as the board may
 20 require.

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

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

28 (4) Every employee who reenters service shall become a member unless the employee has had an
 29 original election of exemption from membership and the employee's service was not interrupted by a break
 30 of more than 1 month. A seasonal employee who has had an original election of exemption from

1 membership is not subject to the requirement regarding the break in service while continuing in the
 2 employee's original employment and employed on a seasonal basis, but upon termination of employment
 3 to accept new employment or absence of more than 1 month in returning to original employment in any
 4 ensuing season, the seasonal employee shall become a member of the retirement system upon reentry.

5 (5) Time during which an employee of a school district is absent from service during official
 6 vacation is counted as service in determining eligibility for membership under this chapter."
 7

8 **Section 13.** Section 19-3-412, MCA, is amended to read:

9 "**19-3-412. Optional membership.** (1) The following employees in covered employment may
 10 become members of the retirement system at their option at any time during their employment in a covered
 11 position by filing a membership card with the board:

12 ~~(1)(a)~~ elected officials of the state or local governments who are paid on a salary or wage basis
 13 rather than on a per diem or other reimbursement basis;

14 ~~(2)(b)~~ part-time employees serving in employment that does not exceed ~~the equivalent of 120~~
 15 working days a total of 960 hours of employment covered by this chapter in any fiscal year;

16 ~~(3)(c)~~ employees directly appointed by the governor;

17 ~~(4)(d)~~ employees working 6 months or less for the legislative branch to perform work related to
 18 the legislative session;

19 ~~(5)(e)~~ the chief administrative officer of any city or county;

20 ~~(6)(f)~~ employees of county hospitals or rest homes in the sixth- and seventh-class counties.

21 (2) If an employee declines optional membership, the employee shall execute a statement waiving
 22 membership and the employer shall retain the statement."
 23

24 **Section 14.** Section 19-3-504, MCA, is amended to read:

25 "**19-3-504. Absence due to illness or injury.** (1) Time, not to exceed 5 years, during which a
 26 member is absent from service ~~by reason because~~ of injury or illness ~~determined within 1 year after the end~~
 27 ~~of the absence as arising out of and in the course of the member's employment~~ is considered membership
 28 service if, within 1 year after the end of the absence, the injury or illness is determined to have arisen out
 29 of and in the course of the member's employment. However, the member may not earn service credits for
 30 this period unless the member complies with subsections (2) through (4), in which case the absence is

1 considered as time spent in service for both service credits and membership ~~credits~~ service.

2 (2) (a) ~~Any~~ A member absent because of an employment-related injury ~~that entitles~~ entitling the
3 member to workers' compensation payments may, upon the member's return to service, contribute to the
4 retirement system, ~~upon the member's return to service~~, an amount equal to the contributions that would
5 have been made by the member to the system on the basis of the member's compensation at the
6 commencement of the member's absence plus regular interest accruing from 1 year from the date after the
7 member returns to covered service to the date the member contributes for the period of absence.

8 (b) Whenever a member elects to contribute under subsection (2)(a), the employer shall contribute
9 ~~an amount equal to what its employer contributions would have been had the member not been absent from~~
10 ~~service. In addition, the employer may contribute an amount equal to the interest accruing~~ for the period
11 of absence based on the salary as calculated in subsection (2)(a) and may pay interest on the employer's
12 contribution calculated in the same manner as interest on the employee's contribution under subsection
13 (2)(a). An employer electing to make ~~a contribution~~ an interest payment shall do so for all employees
14 similarly situated. If the employer elects not to pay the interest costs, this amount must be paid by the
15 employee.

16 (3) At some time after returning to covered service, a member shall file with the board a written
17 notice of the member's intent to pay the contributions under subsection (2).

18 (4) Payment of the employee's contributions that are due because of the period of absence may
19 be made in one sum at the time of filing the notice or on an installment basis before termination of covered
20 service.

21 (5) A member loses the right to contribute for an absence under this section if all of the member's
22 accumulated contributions are refunded pursuant to 19-2-602 or for the period of time during which
23 retirement benefits are received if the member retires during the absence."

24

25 **Section 15.** Section 19-3-511, MCA, is amended to read:

26 **"19-3-511. Transfer of service credits and contributions from teachers' retirement system.** (1) An
27 active member may at any time before retirement make a written election with the board to qualify in the
28 public employees' retirement system all of the member's service in the teachers' retirement system for
29 which the member either has received or is eligible to receive a refund.

30 (2) The amount that must be paid or transferred to the retirement system to qualify this service

1 under this section is the sum of subsections (2)(a) and ~~(3)~~ (2)(b), as follows:

2 ~~(2) In addition to the amounts directly paid or transferred by the member under subsection (3), the~~

3 (a) The teachers' retirement system shall transfer to the public employees' retirement system an
4 amount equal to 72% of the amount payable by the member.

5 ~~(3)(b)~~ The member shall pay either directly or by transferring contributions on account with the
6 teachers' retirement system an amount equal to the member's accumulated contributions at the time that
7 active membership was terminated with the teachers' retirement system, plus accrued interest. Interest
8 must be calculated from the date of termination until payment is received by the public employees'
9 retirement system, based on the interest tables in use by the teachers' retirement system.

10 ~~(4)(3)~~ The amount of service credit granted in subsection (1) must be on a month-by-month basis.
11 Military service credit transferred from the teachers' retirement system must be included in the 5-year
12 maximum military service credit provided for in 19-3-503.

13 ~~(5)(4)~~ Subject to the provisions of 19-2-403, the board is the sole authority in determining the
14 amount of service credit qualified under this section and the amount paid to the retirement system under
15 ~~subsections~~ subsection (2) and (3).

16 ~~(6)(5)~~ If an active member who also has service credit in the teachers' retirement system dies
17 before the member qualifies this service in the public employees' retirement system and if the service
18 credits from both systems, when combined, entitle the member's designated beneficiary to a survivorship
19 benefit, the payment of the survivorship benefit is the liability of the public employees' retirement system.
20 Before payment of the survivorship benefit, the teachers' retirement board shall transfer to the public
21 employees' retirement system the contributions necessary to qualify this service in the public employees'
22 retirement system as provided in ~~subsections~~ subsection (2) and (3).

23 (6) If the board determines that a member was erroneously classified and reported to the teachers'
24 retirement system, the member's accumulated contributions and service, together with the employer
25 contributions plus interest, must be transferred to the public employees' retirement system. Employee and
26 employer contributions due as calculated under 19-3-315 and 19-3-316 are the liability of the employee
27 and the employing entity, respectively, where the error occurred. For the period of time that the employer
28 contributions are held by the teachers' retirement system, interest paid on employer contributions
29 transferred under this subsection must be calculated at the short-term investment pool rate earned by the
30 board of investments in the fiscal year preceding the transfer request."

1 **Section 16.** Section 19-3-513, MCA, is amended to read:

2 **"19-3-513. Election to purchase additional service.** (1) At any time before retirement, a person
3 who became a member of the retirement system before July 1, 1989, and who has 5 years or more of
4 membership service may make a written election with the board to purchase additional service credit for
5 the purpose of calculating the member's retirement benefit. Except as provided in subsection (3), the
6 member may purchase 1 year of additional service credit for each 5 years of membership service that the
7 member has qualified under the retirement system, up to a maximum of 5 years of additional service.

8 (2) For each year of service credit purchased under this section, a member shall ~~contribute~~ make
9 additional contributions to the pension trust fund in an amount equal to the member's compensation for
10 the 12-month period ~~immediately~~ of full-time service most recently preceding the date on which the member
11 elects to purchase the service multiplied by the combined employee and employer contribution rates
12 contained in 19-3-315 and 19-3-316. ~~Contributions~~ Additional contributions may be made in a lump-sum
13 payment or ~~by making additional contributions~~ in installments as agreed upon by the member and the board.
14 Inactive members shall pay interest from the date of termination to the date of payment. Active members
15 shall pay interest from the date of contracting to the date of payment. The board shall set interest rates
16 and approve contracts.

17 (3) (a) Except as provided in subsection (3)(b), after January 1, 1990, a member may elect to
18 qualify a combined total of 5 years of service under 19-3-503, 19-3-512, or this section.

19 (b) A member who has purchased service under 19-3-503 or 19-3-512 on or before January 1,
20 1990, and who elects to purchase service under this section shall receive credit for the full months of
21 service purchased on or before January 1, 1990.

22 (4) Service purchased under this section is not membership service and may not be used to qualify
23 a member for service retirement."
24

25 **Section 17.** Section 19-3-1015, MCA, is amended to read:

26 **"19-3-1015. Medical examination of disability retiree -- cancellation and reinstatement.** (1) The
27 board may, in its discretion, require a disabled member to undergo a medical examination. The examination
28 must be made by a physician or surgeon appointed by the board, at a place mutually agreed upon by the
29 retired member and the board. Upon the basis of the examination, the board shall determine whether the
30 disabled member is unable, by reason of physical or mental incapacity, to perform the essential elements

1 of either the position held by the member when the member retired or the position proposed to be assigned
 2 to the member. If the board determines the member is not incapacitated or if the member refuses to submit
 3 to a medical examination, the member's retirement benefit must be canceled.

4 (2) If the board determines that a disabled member should no longer be subject to medical review,
 5 the board may grant service retirement status to the member without recalculating the monthly benefit. The
 6 board shall notify the member in writing as to the change in status. If the disabled member disagrees with
 7 the board's determination, the member may request the board to reconsider its action. The request for
 8 reconsideration must be made in writing within 60 days after receipt of the notice of the status change.

9 (3) A (a) Except as provided in subsections (3)(b) and (3)(c), a member whose disability retirement
 10 benefit is canceled because the board has determined that the member is no longer incapacitated must be
 11 reinstated to the position held by the member immediately before the member's retirement or to a position
 12 in the same classification a comparable pay and benefit category with duties within the member's capacity
 13 if the member was an employee of the state or of the university. If the member was an employee of a
 14 contracting employer, the board shall notify the proper official of the contracting employer that the disability
 15 retirement benefit has been canceled and that the former employee is eligible for reinstatement to duty. The
 16 fact that the former employee was retired for disability may not prejudice any right to reinstatement to duty
 17 that the former employee may have or claim to have.

18 (b) A member who is employed by an employer terminates any right to reinstatement provided by
 19 this section.

20 (c) This section does not affect any requirement that the former employee meet or be able to meet
 21 professional certification and licensing standards unrelated to the disability and necessary for reinstatement
 22 to duty.

23 (4) If a member whose disability retirement benefit is canceled is not reemployed in a position
 24 subject to the retirement system, the member's service is considered, for the purposes of 19-2-602, to
 25 have been discontinued coincident with the commencement of the member's retirement benefit."
 26

27 **Section 18.** Section 19-3-1104, MCA, is amended to read:

28 **"19-3-1104. Cancellation of disability retirement benefit upon reemployment. Any A** person
 29 receiving a disability retirement benefit who becomes an employee is considered reinstated to service from
 30 retirement, and the person's disability retirement benefit is must be canceled."

1 **Section 19.** Section 19-3-1601, MCA, is amended to read:

2 **"19-3-1601. Eligibility for postretirement adjustment.** (1) Except as provided in subsection (2), a
3 benefit recipient is eligible to receive a postretirement adjustment as provided in 19-3-1603 if the person
4 is receiving a:

5 (a) monthly service retirement benefit, ~~and is 55 years of age or older on or before June 30 in the~~
6 ~~year that the postretirement adjustment is made; or~~

7 ~~(b)~~ disability retirement benefit, or survivorship benefit.

8 (2) A benefit recipient is ineligible to receive a postretirement adjustment under subsection (1)
9 unless the recipient has been receiving a monthly service, disability, or survivorship benefit for at least 24
10 consecutive months on or before June 30 in the year the adjustment is made."

11

12 **Section 20.** Section 19-5-103, MCA, is amended to read:

13 **"19-5-103. Call of retired judge for duty.** (1) Every judge or justice who has voluntarily retired after
14 8 years of service ~~shall~~ must, if physically and mentally able, be subject to call for duty by the supreme
15 court or the chief justice to aid and assist the supreme court, any district court, or any water court under
16 directions as the supreme court may give, including the examination of the facts, cases, and authorities
17 cited, and the preparation of opinions for and on behalf of the supreme court, district court, or water court,
18 or to serve as water judge. The opinions, when and if and to the extent approved by the court, may by the
19 court be ordered to constitute the opinion of the court. The court and the retired judge or justice may,
20 subject to any rule that the supreme court may adopt, perform any ~~and all~~ duties preliminary to the final
21 disposition of cases that are not inconsistent with the constitution of the state.

22 (2) A retired judge or justice, when called to ~~service~~ duty, must be reimbursed for actual expenses,
23 if any, in responding to the call. In addition, for each day of ~~service~~ duty, a retired justice or judge is
24 entitled to receive compensation in an amount equal to one-twentieth of the monthly salary then currently
25 applicable to the judicial position in which the ~~service~~ duty is rendered minus an amount equal to
26 one-twentieth of the monthly retirement benefit that the retired justice or judge is receiving, if any, for each
27 day of ~~service~~ duty rendered."

28

29 **Section 21.** Section 19-5-601, MCA, is amended to read:

30 **"19-5-601. Disability retirement benefit.** In case of the disability of a member, a disability

1 retirement benefit must be granted the member in an amount actuarially equivalent to the service retirement
 2 benefit standing to the member's credit at the time of the member's disability retirement. If the disability
 3 is a direct result of any service ~~to~~ or duty for the Montana judiciary ~~in the line of duty~~, the member must
 4 ~~receive a~~ member's total benefit must equal ~~to~~ one-half of the member's final current salary or the benefit
 5 provided in 19-5-502, whichever is greater."

6
 7 **Section 22.** Section 19-5-801, MCA, is amended to read:

8 "19-5-801. **Payments upon employment-related death.** If the board finds that a member died as
 9 a direct and proximate result of injury received in the course of the member's service or duty, a survivorship
 10 benefit must be paid to the member's designated beneficiary. The survivorship benefit is the greater of the
 11 actuarial equivalent of a member's service retirement benefit ~~provided for in 19-5-502~~ standing to the
 12 member's credit on the date of death or of the contingent annuitant's benefit, if applicable. "

13
 14 **Section 23.** Section 19-6-501, MCA, is amended to read:

15 "19-6-501. **Eligibility and application for service retirement benefit — commencement of benefit.**

16 (1) ~~(a)~~ A member first employed by the Montana highway patrol on or before July 1, 1985, is eligible to
 17 receive a service retirement benefit after completing 20 years or more of membership service and
 18 terminating service.

19 ~~(b)~~(2) A member first employed by the Montana highway patrol after July 1, 1985, is eligible to
 20 receive a service retirement benefit when the member has reached age 50, completed 20 years or more
 21 of membership service, and terminated service.

22 ~~(2) A member eligible to receive a retirement benefit, as provided in subsection (1), shall apply in~~
 23 ~~writing to the division.~~

24 ~~(3) (a) Except as provided in subsection (3)(b), the retirement benefit may commence on the first~~
 25 ~~day of the month following the member's last day of covered service or, if requested by the inactive~~
 26 ~~member in writing, on the first day of the month following receipt of the written application.~~

27 ~~(b) The retirement benefit for an eligible member who has terminated service must commence no~~
 28 ~~later than the first day of the month following the member's 60th birthday."~~

29
 30 **Section 24.** Section 19-6-612, MCA, is amended to read:

1 **"19-6-612. Medical examination of disability retiree -- cancellation of benefit.** (1) The board may
 2 require the recipient of a disability retirement benefit to undergo a medical examination. The examination
 3 must be made by a physician or surgeon at the recipient's place of residence or at another place mutually
 4 agreed on, at the board's expense. Upon the basis of the examination, the board shall determine whether
 5 the recipient can perform the essential elements of the position held by the recipient when the recipient
 6 retired. If the board determines that the recipient is not incapacitated, the recipient's disability retirement
 7 benefit must be canceled when the recipient is offered a position under subsection (3) or when, if a position
 8 is available, the recipient cannot be reinstated under subsection (3) for reasons unrelated to the disability.
 9 If the recipient refuses to submit to a medical examination, the recipient's disability retirement benefit must
 10 be canceled.

11 (2) If the board determines that a recipient of a disability retirement benefit should no longer be
 12 subject to medical review, the board may grant a service retirement status to the recipient without
 13 recalculating the recipient's monthly benefit. The board shall notify the recipient in writing as to the change
 14 in status. If the recipient disagrees with the board's determination, the recipient may request the board to
 15 reconsider its action. The request for reconsideration must be made in writing within 60 days after receipt
 16 of the notice of the status change.

17 (3) A (a) Except as provided in subsection (3)(b), a recipient whose disability retirement benefit
 18 is canceled because the board has determined that the recipient is no longer incapacitated must be
 19 reinstated to the position held by the recipient immediately before the recipient's retirement or to a position
 20 in the same classification a comparable pay and benefit category within the recipient's capacity, whichever
 21 is first open. The fact that the recipient was retired for disability may not prejudice any right to
 22 reinstatement to duty that the recipient may have or claim to have.

23 (b) This section does not affect any requirement that the former employee meet or be able to meet
 24 professional certification and licensing standards unrelated to the disability and necessary for reinstatement
 25 to duty.

26 (4) The department of justice may request a medical or psychological review as to the ability of
 27 the recipient to return to work as a member of the highway patrol. If the board's findings are upheld, the
 28 department of justice shall pay the cost of the review."

29
 30 **Section 25.** Section 19-7-501, MCA, is amended to read:

1 **"19-7-501. Eligibility and application for service retirement — commencement of benefit.** ~~(1) A~~
 2 member who has completed at least 20 years of membership service may retire on a service retirement
 3 benefit.

4 ~~(2) A member electing to retire shall apply in writing to the board.~~

5 ~~(3) (a) Except as provided in subsections (3)(b) and (3)(c), the retirement benefit may commence~~
 6 ~~on the first day of the month following the member's last day of service or, if requested by the inactive~~
 7 ~~member in writing, on the first day of the month following receipt of the written application.~~

8 ~~(b) The retirement benefit for an eligible inactive member must commence no later than the first~~
 9 ~~day of the month following the member's 65th birthday.~~

10 ~~(c) If an elected official's term of office expires before the 15th day of the month, the official may~~
 11 ~~elect to retire on the first day of the last month of the term of office. An official electing this option may~~
 12 ~~not earn service or compensation for purposes of final average salary under the retirement system in that~~
 13 ~~month, and compensation earned in that month is not subject to employer or member contributions."~~

14

15 **Section 26.** Section 19-7-612, MCA, is amended to read:

16 **"19-7-612. Medical examination of disability retiree -- cancellation of benefit.** (1) The board, in
 17 its discretion, may require the recipient of a disability retirement benefit to undergo a medical examination.
 18 The examination must be made by a physician or surgeon at the recipient's place of residence or at another
 19 place mutually agreed on, at the board's expense. Upon the basis of the examination, the board shall
 20 determine, by reason of physical or mental capacity, whether the recipient can perform the essential
 21 elements of the position held by the recipient when the recipient was retired. If the board determines that
 22 the recipient is not incapacitated, the recipient's disability retirement benefit must be canceled when the
 23 recipient is offered a position under subsection (2) or when, if a position is available, the recipient cannot
 24 be reinstated under subsection (2) for reasons unrelated to the disability. If the recipient refuses to submit
 25 to a medical examination, the recipient's disability retirement benefit must be canceled when the recipient
 26 is notified of the determination of the board.

27 (2) A (a) Except as provided in subsection (2)(b), a person other than an elected official whose
 28 disability retirement benefit is canceled because the person is no longer incapacitated must be reinstated
 29 to the position held by the person immediately before the person's retirement or to a position in the same
 30 classification a comparable pay and benefit category within the person's capacity, whichever is first open.

1 The fact that the person was retired for disability may not prejudice any right to reinstatement to duty that
2 the person may have or claim to have.

3 (b) This section does not affect any requirement that the former employee meet or be able to meet
4 professional certification and licensing standards unrelated to the disability and necessary for reinstatement.

5 (3) The public body required to reinstate a person under subsection (2) may request a medical or
6 psychological review as to the ability of the member to return to work as a member of the sheriff's
7 department. If the board's findings are upheld, the public body shall pay the cost of the review."

8

9 **Section 27.** Section 19-7-708, MCA, is amended to read:

10 **"19-7-708. Eligibility for postretirement adjustment.** (1) Except as provided in subsection (2), a
11 benefit recipient is eligible to receive a postretirement adjustment as provided in 19-7-710 if the recipient
12 is receiving a:

13 ~~(a) monthly service retirement benefit, and is 55 years of age or older on or before June 30 in the~~
14 ~~year that the postretirement adjustment is made; or~~

15 ~~(b) disability retirement benefit, or survivorship benefit.~~

16 (2) A benefit recipient is ineligible to receive a postretirement adjustment under subsection (1)
17 unless the monthly service, disability, or survivorship benefit has been paid for at least 24 consecutive
18 months on or before June 30 in the year the adjustment is made."

19

20 **SECTION 28. SECTION 19-7-801, MCA, IS AMENDED TO READ:**

21 **"19-7-801. Membership in municipal police officers' retirement system prior to or following**
22 **city-county consolidation -- payment of benefits by two systems.** (1) A law enforcement officer who has
23 not changed employment but who has, because of a city-county consolidation, been transferred either from
24 a city police force to a county sheriff's department or from a county sheriff's department to a city police
25 force as a law enforcement officer is eligible for a service retirement benefit if the officer's combined service
26 in the sheriffs' retirement system and the municipal police officers' retirement system satisfies the minimum
27 membership service requirement of the system to which the officer last made contributions. A member who
28 has elected to continue membership in the public employees' retirement system under 19-7-301 may
29 continue the election. However, credit for service in the public employees' retirement system that has not
30 been transferred prior to January 1, 1979, may not be transferred.

1 (2) Eligibility for and calculation of disability retirement, death benefits, and refund of contributions
2 are governed by the provisions of the retirement system to which the officer last made contributions.

3 (3) The service retirement benefit of a member described in subsection (1) must be calculated
4 separately for each system based on the service credited under each system. The calculation for the
5 sheriffs' retirement system portion of the benefit must include the appropriate reduction in the retirement
6 benefit for an optional retirement benefit elected under 19-7-1001. The final salary or final average salary
7 for each calculation must be based on the highest compensation earned while a member of either system.
8 Each system shall pay its proportionate share, based on the number of years of service credited, of the
9 combined benefit. ~~The combined benefit may not exceed 60% of the member's final salary or final average~~
10 ~~salary.~~

11 (4) Upon the death of a retired member receiving a service retirement benefit under this section,
12 the survivor or contingent annuitant and the continuing benefit must be determined separately for each
13 system as follows:

14 (a) For the municipal police officers' retirement system portion of the benefit, the surviving spouse
15 must receive a benefit equal to the municipal police officers' retirement system portion of the service
16 retirement benefit as calculated at the time of the member's retirement. If the retired member leaves no
17 surviving spouse or upon the death of the surviving spouse, the retired member's surviving dependent child,
18 or children collectively if there are more than one, shall receive the same monthly benefits that a surviving
19 spouse would receive for as long as the child or one of the children remains dependent as defined in
20 19-9-104. The benefits must be made to the child's appointed guardian for the child's use. If there is more
21 than one dependent child, upon each child no longer qualifying as dependent under 19-9-104, the pro rata
22 benefits to that child must cease and be paid to the remaining children until all the children are no longer
23 dependent.

24 (b) For the sheriffs' retirement system portion of the benefit:

25 (i) the contingent annuitant must receive a continuing benefit as determined under 19-7-1001, if
26 the retired member elected an optional retirement benefit; or

27 (ii) if the retired member did not elect an optional retirement benefit, any payment owed the retired
28 member, including the excess, if any, of the retired member's accumulated contributions standing to the
29 retired member's credit at the time of retirement less payments made to the retired member must be paid
30 to the retired member's designated beneficiary."

1 **Section 29.** Section 19-8-601, MCA, is amended to read:

2 **"19-8-601. Time of retirement -- commencement of benefit.** (1) ~~Any~~ A member in service who has
3 completed at least 20 years of membership service, reached the age of 50 years, and terminated service
4 may retire with a service retirement benefit upon written application to the board.

5 ~~(2) (a) Except as provided in subsection (2)(b), the retirement benefit may commence on the first~~
6 ~~day of the month following the member's last day of service or, if requested by the inactive member in~~
7 ~~writing, on the first day of the month following receipt of the written application.~~

8 ~~(b) The retirement benefit for an eligible inactive member must commence no later than the first~~
9 ~~day of the month following the member's 60th birthday."~~

10

11 **Section 30.** Section 19-8-712, MCA, is amended to read:

12 **"19-8-712. Medical examination of disability retiree -- cancellation of benefit.** (1) The board, in
13 its discretion, may require the recipient of a disability retirement benefit to undergo a medical examination.
14 The examination must be made by a physician or surgeon at the recipient's place of residence or at another
15 place mutually agreed on, at the board's expense. Upon the basis of the examination, the board shall
16 determine, by reason of physical or mental capacity, whether the recipient can perform the essential
17 elements of the position held by the recipient when the recipient retired. If the board determines that the
18 recipient is not incapacitated, the recipient's disability retirement benefit must be canceled when the
19 recipient is offered a position under subsection (3) or when, if a position is available, the recipient cannot
20 be reinstated under subsection (3) for reasons unrelated to the disability. If the recipient refuses to submit
21 to a medical examination, the recipient's disability retirement benefit must be canceled when the recipient
22 is notified of the determination of the board.

23 (2) If the board determines that a recipient of a disability retirement benefit should no longer be
24 subject to medical review, the board may grant a service retirement status to the recipient without
25 recalculating the recipient's monthly benefit. The board shall notify the recipient in writing as to the change
26 in status. If the recipient disagrees with the board's determination, the recipient may request the board to
27 reconsider its action. The request for reconsideration must be made in writing within 60 days after receipt
28 of the notice of the status change.

29 (3) ~~A~~ (a) Except as provided in subsection (3)(b), a recipient whose disability retirement benefit is
30 canceled because the board has determined that the recipient is no longer incapacitated must be reinstated

1 to the position held by the recipient immediately before the recipient's retirement or to a position in ~~the~~
 2 ~~same classification~~ a comparable pay and benefit category within the recipient's capacity, whichever is first
 3 open. The fact that the recipient was retired for disability may not prejudice any right to reinstatement to
 4 duty that the recipient may have or claim to have.

5 (b) This section does not affect any requirement that the former employee meet or be able to meet
 6 professional certification and licensing standards unrelated to the disability and necessary for reinstatement.

7 (4) The department of fish, wildlife, and parks may request a medical or psychological review as
 8 to the ability of the recipient to return to work as a game warden. If the board's findings are upheld, the
 9 department of fish, wildlife, and parks shall pay the cost of the review."

10

11 **Section 31.** Section 19-8-1101, MCA, is amended to read:

12 "19-8-1101. **Eligibility for postretirement adjustment.** (1) Except as provided in subsection (2), a
 13 benefit recipient is eligible to receive a postretirement adjustment as provided in 19-8-1103 if the recipient
 14 is receiving a:

15 ~~(a) monthly service retirement benefit, and is 55 years of age or older on or before June 30 in the~~
 16 ~~year that the postretirement adjustment is made; or~~

17 ~~(b) disability retirement benefit, or survivorship benefit.~~

18 (2) A benefit recipient is ineligible to receive a postretirement adjustment under subsection (1)
 19 unless the monthly service, disability, or survivorship benefit has been paid for at least 24 consecutive
 20 months on or before June 30 in the year the adjustment is made."

21

22 **Section 32.** Section 19-9-801, MCA, is amended to read:

23 "19-9-801. **Eligibility for service retirement — commencement of benefit.** (1) Members are eligible
 24 for retirement as provided in this section.

25 (2) A member is eligible to receive a service retirement benefit when the member has completed
 26 20 years or more of membership service and has terminated service.

27 (3) A member who terminates service after completing at least 10 years of membership service
 28 but prior to completing 20 years of membership service is eligible to receive a service retirement benefit
 29 when the member has reached 50 years of age.

30 ~~(4) (a) Except as provided in subsection (4)(b), the retirement benefit may commence on the first~~

1 ~~day of the month following the member's minimum retirement date or, if requested by the inactive member~~
 2 ~~in writing, on the first day of the month following receipt of the written application.~~

3 ~~(b) The retirement benefit for an eligible inactive member must commence no later than the first~~
 4 ~~day of the month following the member's 55th birthday."~~

5

6 **Section 33.** Section 19-9-904, MCA, is amended to read:

7 **"19-9-904. Termination of disability benefit.** The board, in its discretion, may require the recipient
 8 of a disability retirement benefit to undergo a medical examination. The examination must be made by a
 9 physician or surgeon at the recipient's place of residence or at another place mutually agreed on, at the
 10 board's expense. Upon the basis of the examination, the board shall determine, by reason of physical or
 11 mental capacity, whether the recipient can perform the essential elements of the position held by the
 12 recipient when the recipient was retired. If an inactive member is determined by the board to be no longer
 13 disabled, the inactive member's disability retirement benefit must be canceled when the inactive member
 14 is offered a position under 19-9-905 or when, if a position is available, the former employee could not be
 15 reinstated under 19-9-905 for reasons unrelated to the disability. If the inactive member refuses to submit
 16 to a medical examination, the inactive member's disability retirement benefit must cease as of the date of
 17 the determination. The inactive member must be notified of the determination by the board. The board may
 18 review the status of an inactive member at any time."

19

20 **Section 34.** Section 19-9-905, MCA, is amended to read:

21 **"19-9-905. Reinstatement upon termination of disability benefit.** (1) A (a) Except as provided in
 22 subsection (1)(b), a retired member whose disability retirement benefit is cancelled as provided in 19-9-904
 23 must be reinstated to the position held by the member immediately before retirement or to a position in the
 24 same classification a comparable pay and benefit category with duties within the member's capacity,
 25 whichever is first open. The board shall advise the employer that the disability retirement benefit has been
 26 cancelled and that the member is eligible for reinstatement to duty. The fact that the member was retired
 27 for disability may not prejudice any right to reinstatement to duty that the member may have or claim to
 28 have.

29 (b) This section does not affect any requirement that the former employee meet or be able to meet
 30 professional certification and licensing standards unrelated to the disability and necessary for reinstatement.

1 (2) The city may request a medical or psychological review as to the ability of the member to return
2 to work as a police officer. If the board's findings are upheld, the city shall pay the costs of the review.

3 (3) If the retired member again becomes an active member by returning to service with an employer
4 within 30 days following receipt of notice under 19-9-904, the member must be considered to have been
5 continuously employed during the term of the member's disability. If the retired member fails to become
6 an active member by returning to service with an employer within 30 days following receipt of the notice,
7 the member's termination of service is considered to have occurred as of the member's disability retirement
8 date and the retirement benefit, if any, to which the member becomes entitled on the member's service
9 retirement date must be determined accordingly."
10

11 **Section 35.** Section 19-13-701, MCA, is amended to read:

12 "**19-13-701. Eligibility for service retirement -- commencement of benefit.** (1) A member who has
13 completed 20 years or more of membership service is eligible for service retirement ~~commencing on the first~~
14 ~~day of the month following the member's last day of service.~~

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

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

22
23 **Section 36.** Section 19-13-804, MCA, is amended to read:

24 "**19-13-804. Medical examination of disability retiree -- cancellation of benefit.** (1) The board, in
25 its discretion, may require the recipient of a disability retirement benefit to undergo a medical examination
26 at the board's expense. The examination must be made by a physician or surgeon at the recipient's place
27 of residence or at another place mutually agreed on. Based on the results of the examination, the board
28 shall determine whether the recipient has the physical or mental capacity to perform the essential elements
29 required by the recipient's former position. If the board determines that the recipient is not incapacitated,
30 ~~or~~ if the recipient refuses to submit to a medical examination, or if, when a position is available, the

1 recipient cannot be reinstated under 19-13-805 for reasons unrelated to the disability, the recipient's
2 disability retirement benefit must be canceled. The board shall notify the recipient of this determination and
3 the cancellation of the recipient's benefit.

4 (2) The cancellation of a disability retirement benefit because a member is no longer incapacitated
5 does not prejudice any right of the member to a service retirement benefit."

6

7 **Section 37.** Section 19-13-805, MCA, is amended to read:

8 **"19-13-805. Reinstatement upon termination of benefit.** (1) (a) ~~An inactive~~ Except as provided
9 in subsection (1)(c), a member whose disability retirement benefit is canceled as provided in 19-13-804
10 must be reinstated to the position held by the member immediately before the member's retirement or to
11 a position in ~~the same classification~~ a comparable pay and benefit category with duties within the member's
12 capacity if an appropriate vacancy exists within the member's fire department. The board shall advise the
13 employer that the disability retirement benefit has been canceled and that the inactive member is eligible
14 for reinstatement to duty. The fact that the member was retired for disability may not prejudice any right
15 to reinstatement to duty that the inactive member may have or claim to have.

16 (b) If an appropriate vacancy does not exist within an inactive member's fire department when the
17 member's disability benefit is canceled under 19-13-804, the member's benefit must be reinstated until a
18 vacancy occurs.

19 (c) This section does not affect any requirement that the former employee meet or be able to meet
20 professional certification and licensing standards unrelated to the disability and necessary for reinstatement.

21 (2) The city may request a medical or psychological review as to the ability of the member to return
22 to work as a firefighter. If the board's findings are upheld, the city shall pay the costs of the review.

23 (3) If the inactive member again becomes an active member by returning to active work for an
24 employer within 30 days following receipt of notice under 19-13-804, the member is considered to have
25 been continuously employed during the term of the member's disability. If the inactive member fails to
26 become an active member by returning to active work for an employer within 30 days following receipt of
27 this notice, the member's termination of employment is considered to have occurred as of the member's
28 disability retirement date and the retirement benefit, if any, to which the member becomes entitled on the
29 member's service retirement must be determined accordingly."

30

1 **Section 38.** Section 19-17-102, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

16 (9) "Fire company" means a fire company organized in an unincorporated area, town, or village in
17 accordance with 7-33-2311.

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

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

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

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

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

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

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

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

3 (18) "Volunteer firefighter" means a person who is an active member of an eligible fire company
4 and is not compensated for services as a firefighter."
5

6 NEW SECTION. Section 39. Repealer. Sections 19-3-903 and 19-3-1006, MCA, are repealed.
7

8 NEW SECTION. Section 40. Codification instruction. (1) [Section 1] is intended to be codified as
9 an integral part of Title 19, chapter 2, part 10, and the provisions of Title 19, chapter 2, part 10, apply to
10 [section 1].

11 (2) [Section 2] is intended to be codified as an integral part of Title 19, chapter 8, part 9, and the
12 provisions of Title 19, chapter 8, part 9, apply to [section 2].

13 (3) [Section 3] is intended to be codified as an integral part of Title 19, chapter 2, part 9, and the
14 provisions of Title 19, chapter 2, part 9, apply to [section 3].
15

16 NEW SECTION. SECTION 41. COORDINATION INSTRUCTIONS. (1) IF HOUSE BILL NO. 170 IS
17 PASSED AND APPROVED AND IF IT AMENDS 19-3-513, THEN [SECTION 16 OF THIS ACT], AMENDING
18 19-3-513, IS VOID.

19 (2) IF HOUSE BILL NO. 170 IS PASSED AND APPROVED AND IF IT REPEALS 19-3-1601,
20 19-7-708, AND 19-8-1101, REGARDING ELIGIBILITY FOR POSTRETIREMENT ADJUSTMENTS, AND IF
21 [THIS ACT] IS PASSED AND APPROVED, THEN [SECTIONS 19, 27, AND 31 OF THIS ACT], AMENDING
22 19-3-1601, 19-7-708, AND 19-8-1101, ARE VOID.

23 (3) IF HOUSE BILL NO. 170 IS PASSED AND APPROVED AND IF IT AMENDS 19-5-601, THEN
24 [SECTION 21 OF THIS ACT], AMENDING 19-5-601, IS VOID AND [SECTION 16 OF HOUSE BILL NO. 170]
25 MUST READ:

26 "Section 16. Section 19-5-601, MCA, is amended to read:

27 "19-5-601. **Disability retirement benefit.** In case of the disability of a member, a disability
28 retirement benefit must be granted the member in an amount actuarially equivalent to the service retirement
29 benefit standing to the member's credit at the time of the member's disability retirement. If the disability
30 is a direct result of any service ~~to~~ or duty for the Montana judiciary ~~in the line of duty~~, the member must

1 ~~receive a benefit equal to member's disability retirement benefit must be:~~

2 ~~(1) the greater of one-half of the member's final current salary or the benefit provided in 19-5-502,~~
3 ~~whichever is greater the contingent annuitant's benefit, if applicable, for a person not covered under~~
4 ~~[section 2]; or~~

5 ~~(2) the greater of one-half of the member's final average salary or the contingent annuitant's~~
6 ~~benefit, if applicable, for a person covered under [section 2]."~~

7

8 **NEW SECTION. Section 42. Retroactive applicability.** [Section 15] applies retroactively, within
9 the meaning of 1-2-109, to the period beginning January 1, 1995.

10

11 **NEW SECTION. Section 43. Effective date.** [This act] is effective on passage and approval.

12

-END-