

HOUSE BILL NO. 101

INTRODUCED BY T. STEENBERG

BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

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5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE  
6 ADMINISTRATION OF PUBLIC EMPLOYEE RETIREMENT SYSTEMS; REVISING PROVISIONS OF THE  
7 PUBLIC EMPLOYEES', JUDGES', HIGHWAY PATROL OFFICERS', SHERIFFS', GAME WARDENS' AND  
8 PEACE OFFICERS', MUNICIPAL POLICE OFFICERS', AND FIREFIGHTERS' UNIFIED RETIREMENT  
9 SYSTEMS; REVISING PROVISIONS OF THE VOLUNTEER FIREFIGHTERS' COMPENSATION ACT;  
10 REVISING THE SHARING OF CONFIDENTIAL INCOME INFORMATION; PROVIDING FOR RECOVERY OF  
11 IMPROPER PAYMENTS; REVISING CERTAIN BENEFITS FOR CONTINGENT ANNUITANTS AND  
12 BENEFICIARIES; CLARIFYING OPTIONAL MEMBERSHIP PROVISIONS; CLARIFYING THE CALCULATION  
13 OF CERTAIN BENEFITS; REVISING CERTAIN BENEFIT PAYMENTS AND MEMBERSHIP ELECTION  
14 PROVISIONS; ELIMINATING EXPIRED PROVISIONS; AMENDING SECTIONS 5-2-304, 15-30-2618, 19-2-405,  
15 19-2-801, 19-2-903, 19-2-904, 19-2-908, 19-3-411, 19-3-412, 19-3-904, 19-3-1105, 19-3-1106, 19-3-1210,  
16 19-3-1501, 19-3-2141, 19-5-701, 19-5-802, 19-7-301, 19-7-410, 19-7-503, 19-7-1001, 19-8-302, 19-8-801,  
17 19-8-1001, 19-8-1002, 19-9-301, 19-9-1206, 19-17-112, AND 19-20-302, MCA; REPEALING SECTION  
18 19-9-1020, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

19  
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21  
22 **Section 1.** Section 5-2-304, MCA, is amended to read:

23 **"5-2-304. Participation in public retirement systems.** (1) The purpose of this section is to allow a  
24 person who is elected or appointed to the Montana legislature and who is also a member of a retirement system  
25 provided for in Title 19, chapter 3, 5, 6, 7, 8, 9, 13, 20, or 21, by virtue of the person's nonlegislative employment  
26 to continue the person's participation in the public retirement system of which the person is a member.

27 (2) This section is not intended to provide duplicate credit for the same service in two retirement systems  
28 supported wholly or in part by public funds. This section does not affect contribution rates or benefit payments  
29 specifically provided for in the laws governing the operation of individual retirement systems.

30 (3) (a) A person who is an inactive or retired member of a retirement system provided for in Title 19,



1 chapter 5, 6, 7, 8, 9, 13, 20, or 21, and who is elected or appointed to be a legislator may:

2 (i) return to active membership in the system of which the person is an inactive or retired member under  
3 the requirements of that system; or

4 (ii) remain an inactive or retired member of the retirement system and become an active member of the  
5 public employees' retirement system pursuant to ~~19-3-412~~ [section 10].

6 (b) A person who is an inactive or retired member of the public employees' retirement system provided  
7 for in Title 19, chapter 3, and who is elected or appointed to the legislature may return to active membership in  
8 the public employees' retirement system but cannot simultaneously be an inactive or retired member of the  
9 system as a result of prior covered terminated employment and an active member of the retirement system under  
10 ~~19-3-412~~ [section 10] or this section.

11 (4) (a) A person who is an active member of a public retirement system governed by state law and who  
12 is elected or appointed to be a legislator may, but is not required to, continue the person's participation in that  
13 public retirement system while engaged in official duties as a legislator.

14 (b) To continue participation as an active member in the public retirement system, a legislator shall,  
15 within 90 days of taking office and in a manner prescribed by the appropriate board, file an irrevocable written  
16 election with the teachers' retirement board or the public employees' retirement board.

17 (5) A legislator who elects to continue participation as an active member as provided in subsection (4)  
18 shall continue the payments into the fund of the retirement system at the rate currently in effect in the system  
19 based on the legislator's monthly salary as a member of that system.

20 (6) The state contribution must be made by legislative appropriation. It must equal the appropriate  
21 employer contribution at the rate currently in effect in the system."

22

23 **Section 2.** Section 15-30-2618, MCA, is amended to read:

24 "**15-30-2618. Confidentiality of tax records.** (1) Except as provided in 5-12-303, 15-1-106, 17-7-111,  
25 and subsections (8) and (9) of this section, in accordance with a proper judicial order, or as otherwise provided  
26 by law, it is unlawful to divulge or make known in any manner:

27 (a) the amount of income or any particulars set forth or disclosed in any individual report or individual  
28 return required under this chapter or any other information secured in the administration of this chapter; or

29 (b) any federal return or federal return information disclosed on any return or report required by rule of  
30 the department or under this chapter.

1 (2) (a) The officers charged with the custody of the reports and returns may not be required to produce  
2 them or evidence of anything contained in them in an action or proceeding in a court, except in an action or  
3 proceeding:

4 (i) to which the department is a party under the provisions of this chapter or any other taxing act; or  
5 (ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes  
6 when the reports or facts shown by the reports are directly involved in the action or proceedings.

7 (b) The court may require the production of and may admit in evidence only as much of the reports or  
8 of the facts shown by the reports as are pertinent to the action or proceedings.

9 (3) This section does not prohibit:

10 (a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any return  
11 or report filed in connection with the taxpayer's tax;

12 (b) the publication of statistics classified to prevent the identification of particular reports or returns and  
13 the items of particular reports or returns; or

14 (c) the inspection by the attorney general or other legal representative of the state of the report or return  
15 of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom  
16 an action or proceeding has been instituted in accordance with the provisions of 15-30-2630.

17 (4) The department may deliver to a taxpayer's spouse the taxpayer's return or information related to  
18 the return for a tax year if the spouse and the taxpayer filed the return with the filing status of married filing  
19 separately on the same return. The information being provided to the spouse or reported on the return, including  
20 subsequent adjustments or amendments to the return, must be treated in the same manner as if the spouse and  
21 the taxpayer filed the return using a joint filing status for that tax year.

22 (5) Reports and returns must be preserved for at least 3 years and may be preserved until the  
23 department orders them to be destroyed.

24 (6) Any offense against subsections (1) through (5) is punishable by a fine not exceeding \$500. If the  
25 offender is an officer or employee of the state, the offender must be dismissed from office or employment and  
26 may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in the  
27 case of a former officer or employee, for 1 year after conviction.

28 (7) This section may not be construed to prohibit the department from providing taxpayer return  
29 information and information from employers' payroll withholding reports to:

30 (a) the department of labor and industry to be used for the ~~purpose of~~ investigation and prevention of

1 noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; ~~or~~ OR

2 (b) the state fund to be used for the ~~purpose of~~ investigation and prevention of noncompliance, fraud,  
3 and abuse under the workers' compensation program; ~~or~~

4 ~~—— (c) the public employees' retirement board to be used for the investigation and prevention of~~  
5 ~~noncompliance, fraud, and abuse under the laws governing the retirement systems administered by the public~~  
6 ~~employees' retirement board.~~

7 (8) The department may permit the commissioner of internal revenue of the United States or the proper  
8 officer of any state imposing a tax upon the incomes of individuals or the authorized representative of either officer  
9 to inspect the return of income of any individual or may furnish to the officer or an authorized representative an  
10 abstract of the return of income of any individual or supply the officer with information concerning an item of  
11 income contained in a return or disclosed by the report of an investigation of the income or return of income of  
12 an individual, but the permission may be granted or information furnished only if the statutes of the United States  
13 or of the other state grant substantially similar privileges to the proper officer of this state charged with the  
14 administration of this chapter.

15 (9) On written request to the director or a designee of the director, the department shall furnish:

16 (a) to the department of justice all information necessary to identify those persons qualifying for the  
17 additional exemption for blindness pursuant to 15-30-2114(4), for the purpose of enabling the department of  
18 justice to administer the provisions of 61-5-105;

19 (b) to the department of public health and human services information acquired under 15-30-2616,  
20 pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public  
21 assistance fraud and abuse, provided notice to the applicant has been given;

22 (c) to the department of labor and industry for the purpose of prevention and detection of fraud and  
23 abuse in and eligibility for benefits under the unemployment compensation and workers' compensation programs  
24 information on whether a taxpayer who is the subject of an ongoing investigation by the department of labor and  
25 industry is an employee, an independent contractor, or self-employed;

26 (d) to the department of fish, wildlife, and parks specific information that is available from income tax  
27 returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and  
28 fishing licenses;

29 (e) to the board of regents information required under 20-26-1111;

30 (f) to the legislative fiscal analyst and the office of budget and program planning individual income tax

1 information as provided in 5-12-303, 15-1-106, and 17-7-111. The information provided to the office of budget  
2 and program planning must be the same as the information provided to the legislative fiscal analyst.

3 (g) to the department of transportation farm income information based on the most recent income tax  
4 return filed by an applicant applying for a refund under 15-70-223 or 15-70-362, provided that notice to the  
5 applicant has been given as provided in 15-70-223 and 15-70-362. The information obtained by the department  
6 of transportation is subject to the same restrictions on disclosure as are individual income tax returns.

7 (h) to the commissioner of insurance's office all information necessary for the administration of the small  
8 business health insurance tax credit provided for in Title 33, chapter 22, part 20;

9 (i) TO THE PUBLIC EMPLOYEES' RETIREMENT BOARD EARNINGS INCOME INFORMATION PERTAINING TO A RECIPIENT  
10 OF DISABILITY BENEFITS FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM THAT IS REASONABLY NECESSARY FOR THE  
11 PREVENTION AND DETECTION OF FRAUD AND ABUSE."  
12

13 **Section 3.** Section 19-2-405, MCA, is amended to read:

14 **"19-2-405. Employment of actuary -- annual investigation and valuation.** (1) The board shall retain  
15 a competent actuary who is an enrolled member of the American academy of actuaries and who is familiar with  
16 public systems of pensions. The actuary is the technical adviser of the board on matters regarding the operation  
17 of the retirement systems.

18 (2) The board shall require the actuary to make and report on an annual actuarial investigation into the  
19 suitability of the actuarial tables used by the retirement systems and an actuarial valuation of the assets and  
20 liabilities of each defined benefit plan that is a part of the retirement systems.

21 (3) The normal cost contribution rate, which is funded by required employee contributions and a portion  
22 of the required employer contributions to each defined benefit retirement plan, must be calculated as the level  
23 percentage of members' salaries that will actuarially fund benefits payable under a retirement plan as those  
24 benefits accrue in the future.

25 (4) (a) The unfunded liability contribution rate, which is entirely funded by a portion of the required  
26 employer contributions to the retirement plan, must be calculated as the level percentage of current and future  
27 defined benefit plan members' salaries that will amortize the unfunded actuarial liabilities of the retirement plan  
28 over a reasonable period of time, not to exceed 30 years, as determined by the board.

29 (b) In determining the amortization period under subsection (4)(a) for the public employees' retirement  
30 system's defined benefit plan, the actuary shall take into account the plan choice rate contributions to be made

1 to the defined benefit plan pursuant to 19-3-2117 and ~~19-21-203~~ 19-21-214.

2 (5) The board shall require the actuary to conduct and report on a periodic actuarial investigation into  
3 the actuarial experience of the retirement systems and plans.

4 (6) The board may require the actuary to conduct any valuation necessary to administer the retirement  
5 systems and the plans subject to this chapter.

6 (7) The board shall provide copies of the reports required pursuant to subsections (2) and (5) to the state  
7 administration and veterans' affairs interim committee and to the legislature pursuant to 5-11-210.

8 (8) The board shall require the actuary to prepare for each employer participating in a retirement system  
9 the disclosures or the information required to be included in the disclosures as required by law and by the  
10 governmental accounting standards board or its generally recognized successor."  
11

12 **Section 4.** Section 19-2-801, MCA, is amended to read:

13 **"19-2-801. Designation of beneficiary.** (1) In the absence of any statutory beneficiaries, designated  
14 beneficiaries are the natural persons, charitable organizations, estate of the payment recipient, or trusts for the  
15 benefit of natural living persons that the member or payment recipient designates on the membership ~~card or~~  
16 ~~other~~ form provided by the board.

17 (2) Unless otherwise provided by this title or by a valid temporary restraining order issued pursuant to  
18 40-4-121, a member or payment recipient may revoke the designation and name different designated  
19 beneficiaries by filing with the board a new membership ~~card or other~~ form provided by the board.

20 (3) If a person returns to covered employment in the same retirement system pursuant to 19-2-603, the  
21 person shall complete a new membership form and file it as provided in subsection (2). However, until the new  
22 membership form is filed, the board shall reference the membership ~~card~~ form executed by the person prior to  
23 initial termination of membership for the same purposes as prior to termination. Beneficiaries ~~nominated~~  
24 ~~designated~~ on that membership ~~card~~ form continue to be beneficiaries until ~~changed as provided in subsection~~  
25 ~~(2) of this section~~ the new membership form is filed.

26 (4) (a) Except as provided in subsections (4)(b) and (4)(c), the beneficiary designation on the most recent  
27 membership ~~card~~ form filed with the board is effective for all purposes until the member retires.

28 (b) A member may elect to either override or retain the member's existing beneficiary designation when  
29 completing a membership ~~card~~ form for temporary or secondary employment with another employer within the  
30 same Title 19 retirement system.

1 (c) When a member retires, the designated beneficiaries or contingent annuitants named on the  
2 retirement application become effective.

3 (5) If a statutory or designated beneficiary predeceases the member or payment recipient, the  
4 predeceased beneficiary's share must be paid to the remaining statutory or designated beneficiaries in amounts  
5 proportional to each remaining statutory or designated beneficiary's original share.

6 (6) A statutory or designated beneficiary who renounces an interest in the payment rights of a member  
7 or payment recipient will be considered, with respect to that interest, as having predeceased the member or  
8 payment recipient.

9 (7) A contingent annuitant of a retired member who elected option 2, 3, or 4 pursuant to 19-3-1501,  
10 19-5-701, 19-7-1001, or 19-8-801 may not renounce the contingent annuitant's interest in the payment rights of  
11 the member."

12

13 **Section 5.** Section 19-2-903, MCA, is amended to read:

14 **"19-2-903. ~~Adjustment~~ Correction of errors in payments.** (1) If the amount of a contribution payment  
15 is incorrect, the board may reject the payment or accept the payment and approve any of the following methods  
16 to collect the correct amount:

17 (a) adjustment of subsequent payments from a member or an employer;

18 (b) installment payments or a lump-sum payment from an employer; or

19 (c) a lump-sum payment or a rollover from a member.

20 (2) If a purchase of service credit made pursuant to 19-2-704 is determined to be incorrect, the board  
21 may approve correcting the error by any of the following methods:

22 (a) adjusting the subsequent lump-sum or installment payments from the member or the member's  
23 employer;

24 (b) accepting a lump-sum payment or rollover from the member for the amount underpaid; or

25 (c) granting the member service credit proportional to the amount actually paid.

26 (3) If fraud or error results in a member, survivor, or beneficiary receiving more or less than entitled to,  
27 then ~~on~~ upon the discovery of the error, the board shall correct the error ~~and, if necessary, equitably adjust the~~  
28 ~~payments.~~

29 (4) (a) # EXCEPT AS PROVIDED IN SUBSECTION (5), IF a benefit or payment is overpaid or paid to a person  
30 not entitled to receive the benefit or payment, the board may recover the full amount of the improper distribution,

1 plus interest set at the assumed rate of return on the system's investments. The interest must be compounded  
 2 annually and be applied monthly and must accrue from the date the recipient of the improper distribution received  
 3 a final determination notice of the improper distribution until the total amount owed to the retirement system  
 4 pursuant to this subsection (4) is paid in full.

5 (b) To recover an amount owed pursuant to this subsection (4), the board may adjust future benefit  
 6 payments or arrange for another method of payment. For collection of amounts due, the board may pursue all  
 7 remedies available by law to it, including but not limited to initiating a lawsuit or assigning or referring the debt  
 8 to an attorney or collection agency.

9 (c) The board is entitled to recover its reasonable costs for pursuing collection, including but not limited  
 10 to attorney fees or charges assessed by a collection agency. These costs may be added to the principal amount  
 11 due under this subsection (4) and accrue interest as provided in subsection (4)(a).

12 (d) The recipient of an improperly paid benefit or payment is liable for repayment of ~~all amounts~~ THE  
 13 TOTAL AMOUNT owed pursuant to this subsection (4).

14 (e) The board may, for good cause, waive some or all of the interest charges or collection costs that may  
 15 be assessed under this subsection (4).

16 (5) (A) IF OVERPAID BENEFITS OR UNPAID CONTRIBUTIONS RESULTED SOLELY FROM AN ERROR MADE BY THE  
 17 RETIREMENT SYSTEM:

18 (I) THE RETIREMENT SYSTEM MAY RECOVER THE AMOUNT OWED ONLY WITH RESPECT TO THE TIMEFRAME  
 19 BEGINNING 24 MONTHS PRIOR TO THE DATE ON WHICH THE RETIREMENT SYSTEM ISSUES AN INITIAL NOTICE OF THE  
 20 AMOUNT OWED AND ENDING WHEN THE AMOUNT OWED IS PAID IN FULL; AND

21 (II) INTEREST MAY NOT BE CHARGED IF THE AMOUNT OWED IS PAID WITHIN 30 DAYS AFTER ISSUANCE OF THE FINAL  
 22 STAFF DETERMINATION.

23 (B) IF THE AMOUNT OWED IS NOT PAID IN FULL WITHIN 30 DAYS AFTER ISSUANCE OF THE FINAL STAFF  
 24 DETERMINATION, THE AMOUNT OWED ACCRUES INTEREST AT THE RETIREMENT SYSTEM'S ACTUARIALLY ASSUMED ANNUAL  
 25 RATE OF RETURN, COMPOUNDED MONTHLY, BEGINNING ON THE 31ST DAY AFTER ISSUANCE OF THE FINAL STAFF  
 26 DETERMINATION. INTEREST CONTINUES TO ACCRUE UNTIL THE AMOUNT OWED TO THE RETIREMENT SYSTEM IS FULLY  
 27 PAID."

28  
 29 **Section 6.** Section 19-2-904, MCA, is amended to read:

30 **"19-2-904. Withholding of group insurance premium from retirement benefit. (1)** A retiree who is



1 a participant in an employee group insurance plan that permits participation in the group plan following retirement  
2 may elect to have the monthly premium for group insurance withheld by the retirement system and paid directly  
3 by the system to the insurance carrier. In order to qualify for this withholding, a retiree must be a participant in  
4 a group insurance plan available to the employees of the former employer. Withholding may not be made for any  
5 retiree covered by an individual insurance policy.

6 (2) Following the death of a retiree who elected withholding of premiums under subsection (1), the  
7 retiree's contingent annuitant may elect to have the contingent annuitant's monthly premium for group insurance  
8 withheld by the retirement system and paid directly by the system to the insurance carrier. In order to qualify for  
9 this withholding, the contingent annuitant must be covered by the same group insurance plan that covered the  
10 retiree in accordance with subsection (1)."

11

12 **Section 7.** Section 19-2-908, MCA, is amended to read:

13 **"19-2-908. Time of commencement of benefit -- rulemaking.** (1) (a) The board shall grant a benefit  
14 to any active or inactive member who is vested, or the member's statutory or designated beneficiary, who has  
15 fulfilled all eligibility requirements, terminated service, and filed the appropriate written application with the board.  
16 However, the board may, on its own accord and without a written application, begin benefit payments to a  
17 member or beneficiary in order to comply with section 401(a)(9) of the Internal Revenue Code.

18 (b) A member may apply for retirement benefits before termination from employment, but  
19 commencement of the benefits must be as provided in this section.

20 (2) (a) Except as provided in subsection (2)(b), the service retirement benefit may commence on the first  
21 day of the month following the eligible member's last day of employment or, if requested by the member in writing,  
22 on the first day of a later month.

23 (b) If an elected official's term of office expires before the 15th day of the month, the official may elect  
24 that service retirement benefits from a defined benefit plan commence on the first day of the month following the  
25 official's last full month in office. An official electing this option shall file a written application with the board. An  
26 official electing this option may not earn membership service, service credit, or compensation for purposes of  
27 calculating highest average compensation or final average compensation, as defined under the provisions of the  
28 appropriate retirement system, in the partial month ending the official's term, and compensation earned in that  
29 partial month is not subject to employer or employee contributions.

30 (3) (a) Subject to the provisions of subsection (3)(b), the disability retirement benefit payable to a

1 member must commence on the day following the member's termination from employment.

2 (b) If a disabled member continues with a purchase of service or chooses to purchase service following  
3 termination of employment, the member's disability benefit may not commence until the service purchase is  
4 completed.

5 (4) If a member begins receiving retirement benefits payments later than when the member is initially  
6 eligible, the guaranteed annual benefit adjustment payable pursuant to 19-3-1605, 19-5-901, 19-6-710, 19-6-711,  
7 19-7-711, 19-8-1105, 19-9-1009, 19-9-1010, 19-9-1013, 19-13-1010, and 19-13-1011 does not commence until  
8 January 1 of the year after the year in which the member begins to receive the member's retirement benefit  
9 payment. The guaranteed annual benefit adjustment may not be paid retroactively.

10 (5) A designated beneficiary eligible to receive a death payment may instead elect a survivorship benefit  
11 if the designated beneficiary is a natural person and notifies the board of the designated beneficiary's election  
12 in writing within 90 days after the designated beneficiary receives notice that the designated beneficiary is eligible  
13 to receive a death payment. Monthly survivorship benefits from a defined benefit plan must commence on the  
14 day following the death of the member.

15 (6) Estimated and finalized benefit payments must be issued as provided in rules adopted by the board.

16 (7) With respect to the defined contribution plan, the board shall adopt rules regarding the  
17 commencement of benefits that are consistent with applicable provisions of the Internal Revenue Code and its  
18 implementing regulations."

19

20 **Section 8.** Section 19-3-411, MCA, is amended to read:

21 "**19-3-411. Eligible employees.** Subject to 19-3-402, 19-3-403, ~~and 19-3-412~~, and [section 10], eligible  
22 employees under the system who are not covered by a separate retirement system under this title include the  
23 following:

24 (1) any employee of the state of Montana, its university system or any of the colleges, schools,  
25 components, or units of the university system; and

26 (2) any employee of a contracting employer eligible to participate under the contract between the board  
27 and the contracting employer under 19-3-201."

28

29 **Section 9.** Section 19-3-412, MCA, is amended to read:

30 "**19-3-412. Optional membership -- employees not in elected office.** (1) Except as provided in

1 ~~5-2-304~~ and subsection (2) of this section, the following employees and elected officials in covered positions that  
 2 are not elected offices shall elect either to become active members of the retirement system or to decline this  
 3 optional membership by filing an irrevocable, written application with the board in the manner prescribed in  
 4 subsection (3):

5 ~~(a) elected officials of the state or local governments, including individuals appointed to fill the unexpired~~  
 6 ~~term of elected officials, who:~~

7 ~~—— (i) are paid on a salary or wage basis rather than on a per diem or other reimbursement basis; or~~

8 ~~—— (ii) were members receiving retirement benefits under the defined benefit plan or a distribution under the~~  
 9 ~~defined contribution plan at the time of their election;~~

10 ~~(b)(a)~~ employees serving in employment that does not cumulatively exceed a total of 960 hours of  
 11 covered employment with all employers under this chapter in any fiscal year;

12 ~~(c)(b)~~ employees directly appointed by the governor;

13 ~~(d)(c)~~ employees working 10 months or less for the legislative branch to perform work related to the  
 14 legislative session;

15 ~~(e)(d)~~ the chief administrative officer of any city or county; and

16 ~~(f)(e)~~ employees of county hospitals or rest homes.

17 (2) ~~(a) A member who is elected to a local government position in which the member works less than 960~~  
 18 ~~hours in a fiscal year may, within 90 days of taking office, decline optional membership with respect to the~~  
 19 ~~member's elected position. An employee who is an active or inactive member at the time of employment is not~~  
 20 ~~eligible to make an election under subsection (1). Upon employment in the position, an employee who was an~~  
 21 ~~active member remains an active member for all covered employment and an employee who was an inactive~~  
 22 ~~member shall become an active member.~~

23 ~~(b) A person who was a retired member before employment in a position for which membership is~~  
 24 ~~optional under subsection (1) is not eligible to make an election under subsection (1) and is subject to the~~  
 25 ~~provisions of Title 19, chapter 3, part 11.~~

26 (3) (a) The board shall prescribe the form of the written application required pursuant to subsection (1)  
 27 and provide written application forms to each employer.

28 (b) Each employee ~~or elected official~~ in a position covered under subsection (1) shall obtain the written  
 29 application form from the employer and complete and return it to the board.

30 (c) The written application must be filed with the board:

1 ~~\_\_\_\_\_ (i) for an employee described in subsection (1)(d); within 90 days of after the commencement of the~~  
 2 ~~employee's employment; and~~

3 ~~\_\_\_\_\_ (ii) for an employee or elected official described in subsection (1)(a), (1)(b), (1)(c), (1)(e), or (1)(f), within~~  
 4 ~~90 days of the commencement of the employee's or elected official's employment.~~

5 (d) The employer shall retain a copy of the employee's ~~or elected official's~~ written application.

6 (4) If the employee ~~or elected official~~ fails to file with the board the written application required under  
 7 subsection (1) ~~with the board~~ within the time allowed in subsection (3), the ~~employee or elected official waives~~  
 8 the failure must be considered an election to decline membership.

9 (5) ~~An~~ Except as provided in subsection (6), an employee ~~or elected official~~ who declines optional  
 10 membership may not receive membership service or service credit for the employment for which membership  
 11 was declined.

12 (6) An employee ~~or elected official~~ who declined optional membership but later becomes a member may  
 13 purchase service credit for the period of time beginning with the date of employment in which membership was  
 14 declined to the commencement of membership. Purchase of service credit pursuant to this subsection must  
 15 comply with 19-3-505.

16 ~~(7) Except as provided in subsection (2), membership in the retirement system is not optional for an~~  
 17 ~~employee or elected official who is already a member. Upon employment in a position for which membership is~~  
 18 ~~optional:~~

19 ~~\_\_\_\_\_ (a) a member who was an active member before the employment remains an active member;~~

20 ~~\_\_\_\_\_ (b) a member who was an inactive member before the employment becomes an active member; and~~

21 ~~\_\_\_\_\_ (c) a member who was a retired member before the employment is subject to part 11 of this chapter.~~

22 ~~(8) (a) An employee who declines membership for a position for which membership is optional may not~~  
 23 ~~later become a member while still employed with the same employer but in a different optional membership~~  
 24 ~~position.~~

25 ~~\_\_\_\_\_ (b) An elected official who declines membership for a position for which membership is optional may not~~  
 26 ~~later become a member if reelected to the same optional membership position.~~

27 ~~\_\_\_\_\_ (c) If, after termination from employment for 30 days or more, an employee who was employed in an~~  
 28 ~~optional membership position is reemployed in the same position or is employed in a different position for which~~  
 29 ~~membership is optional, the employee shall again choose or decline membership.~~

30 ~~\_\_\_\_\_ (d) If the termination from employment is less than 30 days, an employee who declined membership is~~

1 bound by the employee's original decision to decline membership.

2 (7) An employee who has made an election under this section may not make a new or different election  
 3 under this section in any circumstance unless the employee has been terminated from employment in all optional  
 4 membership positions for at least 30 days.

5 ~~(9)(8)~~ An employee accepting a position that requires membership ~~must~~ shall become a member even  
 6 if the employee previously declined membership ~~and did not have a 30-day break in service under this section."~~

7  
 8 **NEW SECTION. Section 10. Optional membership -- elected officials.** (1) (a) Except as provided  
 9 in 5-2-304 and subsection (2) of this section, a person who is elected or appointed to an elected office and paid  
 10 a salary or wage by an employer shall elect either to become an active member of the retirement system or to  
 11 decline this optional membership by filing an irrevocable, written application with the board in the manner  
 12 prescribed in subsection (3).

13 (b) If the elected official is a retired member, the elected official may make an election under this section  
 14 to become an active member or to decline membership and remain a retired member with no limitation on the  
 15 number of hours worked or wages earned in the elected office.

16 (2) An elected official who works more than 960 hours in a fiscal year in that elected office and who was  
 17 an active or inactive member before becoming an elected official is not eligible to make an election under  
 18 subsection (1). An active member remains an active member for all covered employment, and an inactive  
 19 member shall become an active member.

20 (3) (a) The board shall prescribe the form of the written application required pursuant to this section and  
 21 provide the form to each employer.

22 (b) An election form must be completed and returned to the board within 90 days after the elected official  
 23 assumes office. Failure to file the written application form within 90 days is considered an election to decline  
 24 membership.

25 (c) The employer shall retain a copy of the elected official's written application.

26 (4) Except as provided in subsection (5), an elected official who declines optional membership may not  
 27 receive membership service or service credit for any employment in the position for which membership was  
 28 declined.

29 (5) An elected official who declined optional membership under this section but who later becomes a  
 30 member may purchase service credit for the period of time the person was employed in the optional position and

1 declined membership. Purchase of service credit pursuant to this subsection must comply with 19-3-505.

2 (6) An elected official who has made an election under this section and who is reelected or reappointed  
3 to the same office is not eligible to make a new election.

4 (7) For purposes of this section, "elected official" means all persons covered by subsection (1)(a).  
5

6 **Section 11.** Section 19-3-904, MCA, is amended to read:

7 **"19-3-904. Amount of service retirement benefit.** (1) The monthly amount of service retirement benefit  
8 payable following retirement to a member hired before July 1, 2011, with:

9 (a) less than 25 years of membership service is the greater of one fifty-sixth of the member's highest  
10 average compensation multiplied by the number of years of the member's total service credit or the benefit  
11 calculated under subsection (3); or

12 (b) 25 or more years of membership service is the greater of 2% of the member's highest average  
13 compensation multiplied by the number of years of the member's total service credit or the benefit calculated  
14 under subsection (3).

15 (2) The monthly amount of service retirement benefit payable following retirement to a member hired on  
16 or after July 1, 2011, with:

17 (a) less than 10 years of membership service is the greater of 1.5% of the member's highest average  
18 compensation multiplied by the number of years of the member's total service credit or the benefit calculated  
19 under subsection (3);

20 (b) 10 or more years but less than 30 years of membership service is the greater of one fifty-sixth of the  
21 member's highest average compensation multiplied by the number of years of the member's total service credit  
22 or the benefit calculated under subsection (3); or

23 (c) 30 or more years of membership service is the greater of 2% of the member's highest average  
24 compensation multiplied by the number of years of the member's total service credit or the benefit calculated  
25 under subsection (3).

26 (3) ~~Instead of the benefit provided under subsection (1) or (2), a member may~~ is entitled to receive the  
27 greater of:

28 (a) the benefit provided pursuant to subsection (1) or (2); or

29 (b) a monthly benefit that is the actuarial equivalent of the sum of:

30 (i) double the member's ~~accumulated~~ regular contributions and regular interest; and

1 ~~(ii) if that benefit is greater than the benefit the member would have received under subsection (1) or (2)~~  
 2 ~~any amounts paid by the member to purchase service credit and membership service as provided by law."~~

3  
 4 **Section 12.** Section 19-3-1105, MCA, is amended to read:

5 ~~"19-3-1105. Benefit upon second retirement. (1) Except as otherwise expressly provided by law, a~~  
 6 ~~member with~~ A member with an initial retirement date before January 1, 2016, who returns to active service and  
 7 accrues:

8 (a) less than 2 years of service credit before again terminating service:

9 (i) must receive a refund, paid in the manner provided in 19-2-602, of the member's regular contributions  
 10 after the member's return to active service, plus regular interest on those contributions;

11 (ii) may not be awarded service credit for the period of reemployment; and

12 (iii) starting the first month following termination, must receive the same retirement benefit amount paid  
 13 to the member in the month immediately prior to returning to active service.

14 (b) at least 2 years of service credit accrued after reemployment must receive the benefit of before again  
 15 terminating service must receive a recalculated retirement benefit based on provisions enacted after the  
 16 member's initial retirement, but only with respect to the service credit earned after reemployment.

17 (2) A member with an initial retirement date on or after January 1, 2016, who returns to active service  
 18 and accrues:

19 (a) less than 5 years of service credit before again terminating service:

20 (i) must receive a refund, paid in the manner provided in 19-2-602, of the member's regular contributions  
 21 after the member's return to active service, plus regular interest on those contributions;

22 (ii) may not be awarded service credit for the period of reemployment; and

23 (iii) starting the first month following termination, must receive the same retirement benefit amount paid  
 24 to the member in the month immediately prior to returning to active service;

25 (b) at least 5 years of service credit before again terminating service must, starting the first month  
 26 following termination:

27 (i) receive the same retirement benefit amount paid to the member in the month immediately prior to  
 28 returning to active service; and

29 (ii) receive a second retirement benefit calculated for the period of reemployment under 19-3-902 or  
 30 19-3-904, as applicable, and based on the laws in effect as of the member's rehire date.

1           (3) Members who return to active service following retirement may not accrue postretirement benefit  
 2 adjustments under Title 19, chapter 3, part 16, during the member's term of reemployment.

3           (4) Postretirement benefit adjustments will start to accrue on the benefits under:

4           (a) subsections (1)(a)(iii) and (2)(a)(iii) in January immediately following the member's second retirement;

5           (b) subsections (1)(b) and (2)(b) in January after the member has received the recalculated benefit for  
 6 at least 12 months.

7           ~~(2)~~(5) Upon retirement subsequent to a cancellation of a disability benefit under 19-3-1104, a member  
 8 must receive a recalculated benefit as provided in 19-3-904 or 19-3-906, as applicable. The recalculated benefit  
 9 is based on service credit accumulated at the time of the member's previous retirement plus any service credit  
 10 accumulated subsequent to reemployment."  
 11

12           **Section 13.** Section 19-3-1106, MCA, is amended to read:

13           **"19-3-1106. Limited reemployment -- reduction of service retirement benefit upon exceeding limits**  
 14 **-- reporting obligations -- liability -- exceptions.** (1) A retired member under 65 years of age who was hired  
 15 prior to July 1, 2011, who has been terminated from employment for at least 90 days, and who is receiving a  
 16 service retirement benefit or early retirement benefit may return to employment covered by the retirement system  
 17 for a period not to exceed 960 hours in any calendar year without returning to active service and without any  
 18 effect to the retiree's retirement benefit. The retirement benefit for any retiree exceeding this 960-hour limitation  
 19 in any calendar year after retirement must be temporarily reduced \$1 for each \$1 earned after working 960 hours  
 20 in that calendar year.

21           (2) A retired member who is 65 years of age or older but less than 70 1/2 years of age, who has been  
 22 terminated from employment for at least 90 days, and who returns to employment covered by the retirement  
 23 system is either subject to the 960-hour limitation of subsection (1) or may earn in any calendar year an amount  
 24 that, when added to the retiree's current annual retirement benefit, will not exceed the member's annualized  
 25 highest average compensation, adjusted for inflation as of January 1 of the current calendar year, whichever  
 26 limitation provides the higher limit on earned compensation to the retiree. Upon reaching the applicable limitation,  
 27 the retiree's benefits must be temporarily reduced \$1 for each \$1 of compensation earned in service beyond the  
 28 applicable limitation during that calendar year.

29           (3) (a) The employer of a retiree returning to employment covered by the retirement system shall certify  
 30 to the board the number of hours worked by the retiree and the gross compensation paid to the retiree in that



1 employment during any pay period after retirement. The certification of hours and compensation may be  
2 submitted electronically pursuant to rules adopted by the board.

3 (b) An employer that fails to timely or accurately report the employment of, time worked by, or  
4 compensation paid to a retired member as required under subsection (3)(a) is jointly and severally liable with the  
5 retired member for repayment to the retirement system of retirement benefits paid to which the member was not  
6 entitled, plus interest.

7 (4) ~~A~~ Except as provided in [section 10], a retiree returning to employment covered by the retirement  
8 system may elect to return to active ~~membership~~ service at any time during this period of covered employment.

9 (5) The following members who return to employment covered by the retirement system are not subject  
10 to the hour or earnings limitations in subsections (1) and (2) ~~or~~ but are subject to the reporting requirements in  
11 subsection (3):

12 (a) a retired member who is 70 1/2 years of age or older; or

13 (b) an elected official in a covered position who, as a retired member, declines optional membership as  
14 provided in ~~19-3-412~~ [section 10].

15 (6) ~~Except as provided in subsection (5), if~~ If a retired member is employed by an employer in a position  
16 that is reportable to the retirement system and the retired member is concurrently working for the employer in  
17 another position that is not reportable to the system, the position that is not reportable is considered to be part  
18 of the position that is reportable to the retirement system. All earnings of the retired member that are generated  
19 by these positions are reportable to the retirement system.

20 (7) For the purposes of this section, "employment covered by the retirement system" includes:

21 (a) work performed by a retiree through a professional employer arrangement, an employee leasing  
22 arrangement, or a temporary service contractor as those terms are defined in 39-8-102; and

23 (b) services performed by a retiree as an independent contractor for an employer participating in the  
24 system."

25

26 **Section 14.** Section 19-3-1210, MCA, is amended to read:

27 **"19-3-1210. Death payments to designated beneficiaries of retired members.** (1) When a retired  
28 member receiving an option 1 retirement benefit under 19-3-1501 dies, the member's designated beneficiary or,  
29 if there is no surviving designated beneficiary, the member's estate must be paid the amount, if any, of the  
30 member's accumulated contributions calculated as of the day of the member's retirement minus the total of any

1 retirement benefits already paid from the member's account.

2 (2) If a retired member receiving an option 2 or 3 retirement benefit under 19-3-1501 dies with no  
3 surviving contingent annuitant, the member's designated beneficiary or, if there is no surviving designated  
4 beneficiary, the member's estate must be paid the amount, if any, of the member's accumulated contributions  
5 calculated as of the day of the member's retirement minus the total of any retirement benefits already paid from  
6 the member's account.

7 (3) This section does not apply if the member was receiving a disability benefit. The member's  
8 accumulated contributions may not be reduced by the disability benefits already paid unless the disability benefit  
9 was converted to a service retirement benefit pursuant to 19-2-406(5)."

10

11 **Section 15.** Section 19-3-1501, MCA, is amended to read:

12 **"19-3-1501. Optional forms of benefits -- designation of contingent annuitant.** (1) The retirement  
13 benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted, in  
14 lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of  
15 the original benefit. If the member does not elect an optional retirement benefit pursuant to subsection (2), the  
16 member's retirement benefit is known as an option 1 benefit.

17 (2) An optional retirement benefit under this subsection (2) is initially payable during the member's or  
18 designated beneficiary's lifetime, with a subsequent benefit, depending on the option selected, to a contingent  
19 annuitant as follows:

20 (a) option 2--a continuation of the optional retirement benefit after the death of the initial payee and  
21 payable during the lifetime of the named contingent annuitant. This option may be the chosen benefit only if the  
22 adjusted age difference between the member or designated beneficiary and the contingent annuitant, other than  
23 the member's or designated beneficiary's spouse, is 10 years or less. The adjusted age difference is either:

24 (i) the excess of the age of the member or designated beneficiary over the age of the nonspouse  
25 contingent annuitant based on their ages on their birthdays in a calendar year; or

26 (ii) if the member or designated beneficiary is under 70 years of age, the age difference determined in  
27 subsection (2)(a)(i) reduced by the number of years that the member or designated beneficiary is under 70 years  
28 of age on the member's or beneficiary's birthday in the calendar year that contains the benefit starting date.

29 (b) option 3--a continuation of one-half of the optional retirement benefit after the death of the initial  
30 payee and payable during the lifetime of the named contingent annuitant;

1 (c) option 4--a continuation of the optional retirement benefit to one or more contingent annuitants in the  
2 event of the initial payee's death before the end of a period certain, determined as follows:

3 (i) the period certain commences at the time that the initial payee first begins receiving the retirement  
4 benefit and is available as either:

5 (A) a 10-year period certain if the member retired at 75 years of age or younger; or

6 (B) a 20-year period certain if the member retired at 65 years of age or younger;

7 (ii) if there is more than one surviving contingent annuitant, each contingent annuitant must receive a  
8 proportion of the initial payee's benefit on a share-and-share-alike basis;

9 (iii) if all surviving contingent annuitants die prior to the end of the period certain and the last remaining  
10 contingent annuitant has failed to name a designated beneficiary, the remaining payments must be converted  
11 to an equivalent lump-sum amount and paid to the estate of the last surviving contingent annuitant.

12 (3) The member or the designated beneficiary who elects an optional retirement benefit under subsection  
13 (2) shall file a written application with the board prior to the first payment of the benefit. A contingent annuitant  
14 must be identified on the application.

15 (4) If the member or designated beneficiary or the named contingent annuitant dies before the first  
16 payment has been made under option 2 or 3, the election of the option is automatically canceled.

17 (5) If the member dies after ~~retirement~~ terminating service and within 30 days ~~from~~ after the date that  
18 the member's written application electing or changing an election of an optional retirement benefit under  
19 subsection (2) is received by the board, then the election is void.

20 (6) After the member or designated beneficiary has received and accepted an initial retirement benefit  
21 payment, the member may not change the selected option except as provided in subsection (7).

22 (7) A retired member receiving an optional retirement benefit pursuant to subsection (2)(a) or (2)(b) may  
23 file a written application with the board to have the member's optional retirement benefit revert to the regular  
24 retirement benefit available at the time of the member's retirement if:

25 (a) the original contingent annuitant has died, in which case the optional benefit must revert effective on  
26 the first day of the month following the contingent annuitant's death; or

27 (b) the member's marriage to the original contingent annuitant has been dissolved and the original  
28 contingent annuitant has not been granted the right to receive the optional retirement benefit as part of a family  
29 law order, as defined in 19-2-907. The benefit must then revert effective on the first day of the month following  
30 receipt of the written application and verification that the family law order does not grant the optional benefit to

1 the original contingent annuitant.

2 (8) A member who applies to revert under subsection (7) shall, at the time of the application, choose one  
3 of the following alternatives:

4 (a) revert to the member's original option 1 retirement benefit, increased by the amount of any  
5 adjustments received by the member since the effective date of the member's retirement;

6 (b) retain the same option 2 or option 3 originally selected but name a new contingent annuitant; or

7 (c) select a different option under subsection (2) and name a new contingent annuitant.

8 (9) If the member selects an alternative under subsection (8)(b) or (8)(c), the member's retirement benefit  
9 must be calculated based on the member's and the new contingent annuitant's ages at the time of this election.

10 (10) A written application pursuant to subsection (7) must be filed with the board within 18 months of the  
11 death of or dissolution of marriage to the contingent annuitant."

12

13 **Section 16.** Section 19-3-2141, MCA, is amended to read:

14 **"19-3-2141. Long-term disability plan -- benefit amount -- eligibility -- administration and**  
15 **rulemaking.** (1) For members hired prior to July 1, 2011:

16 (a) except as provided in subsection (1)(b), a disabled member eligible under the provisions of this  
17 section is entitled to a disability benefit equal to one fifty-sixth of the member's highest average compensation,  
18 as defined in 19-3-108, multiplied by the member's years of service credit, including any service credit purchased  
19 under 19-3-513;

20 (b) an eligible member with at least 25 years of membership service is entitled to a disability benefit equal  
21 to 2% of the member's highest average compensation, as defined in 19-3-108, multiplied by the member's years  
22 of service credit, including any service credit purchased under 19-3-513.

23 (2) For members hired on or after July 1, 2011, the monthly disability benefit payable to a disabled  
24 member eligible under the provisions of this section who has:

25 (a) more than 5 but less than 10 years of membership service is equal to 1.5% of the member's highest  
26 average compensation multiplied by the member's years of service credit, including any additional service credit  
27 purchased under 19-3-513;

28 (b) 10 or more but less than 30 years of membership service is equal to one fifty-sixth of the member's  
29 highest average compensation multiplied by the member's years of service credit, including any additional service  
30 credit purchased under 19-3-513; or

1 (c) 30 or more years of membership service is equal to 2% of the member's highest average  
2 compensation multiplied by the member's years of service credit, including any additional service credit  
3 purchased under 19-3-513.

4 (3) Payment of the disability benefit provided in this section is subject to the following:

5 (a) the member must be vested in the plan as provided in 19-3-2116;

6 (b) for members hired prior to July 1, 2011:

7 (i) if the member's disability occurred when the member was 60 years of age or less, the benefit may  
8 be paid only until the member reaches 65 years of age; and

9 (ii) if the member's disability occurred after the member reached 60 years of age, the benefit may be paid  
10 for no more than 5 years;

11 (c) for members hired on or after July 1, 2011:

12 (i) if the member's disability occurred when the member was less than 65 years of age, the benefit may  
13 be paid only until the member reaches 65 years of age; and

14 (ii) if the member's disability occurred after the member reached 65 years of age, the benefit may be paid  
15 for no more than 5 years; and

16 (d) the member shall satisfy the other applicable requirements of this section and the board's rules  
17 adopted to implement this section.

18 (4) Application for a disability benefit must be made in accordance with 19-2-406.

19 (5) The board shall make determinations on disability claims and conduct medical reviews in a manner  
20 consistent with the provisions of 19-2-406 and 19-3-1015. A member may seek review of a board determination  
21 as provided in rules adopted by the board.

22 (6) If a member receiving a disability benefit under this section dies, the disability benefit payments cease  
23 and the member's beneficiary is entitled to death benefits only as provided for in 19-3-2125. Any disability benefits  
24 paid in error after the member's death may be recovered by the board pursuant to 19-2-903.

25 (7) The board shall establish a long-term disability plan trust fund from which disability benefit costs  
26 pursuant to this section must be paid. The trust fund must be entirely separate and distinct from the defined  
27 benefit plan trust fund.

28 (8) The board shall perform the duties, exercise the powers, and adopt reasonable rules to implement  
29 the provisions of this section."  
30

1           **Section 17.** Section 19-5-701, MCA, is amended to read:

2           **"19-5-701. Optional forms of benefits -- designation of contingent annuitant.** (1) The retirement  
3 benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted, in  
4 lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of  
5 the original benefit. If the member does not elect an optional retirement benefit pursuant to subsection (2), the  
6 member's retirement benefit is known as an option 1 benefit.

7           (2) An optional retirement benefit under this subsection (2) is initially payable during the member's or  
8 designated beneficiary's lifetime, with a subsequent benefit, depending on the option selected, to a contingent  
9 annuitant as follows:

10           (a) option 2--a continuation of the optional retirement benefit after the death of the initial payee and  
11 payable during the lifetime of the named contingent annuitant. This option may be the chosen benefit only if the  
12 adjusted age difference between the member or designated beneficiary and the contingent annuitant, other than  
13 the member's or designated beneficiary's spouse, is 10 years or less. The adjusted age difference is either:

14           (i) the excess of the age of the member or designated beneficiary over the age of the nonspouse  
15 contingent annuitant based on their ages on their birthdays in a calendar year; or

16           (ii) if the member or designated beneficiary is under 70 years of age, the age difference determined in  
17 subsection (2)(a)(i) reduced by the number of years that the member or designated beneficiary is under 70 years  
18 of age on the member's or beneficiary's birthday in the calendar year that contains the benefit starting date.

19           (b) option 3--a continuation of one-half of the optional retirement benefit after the death of the initial  
20 payee and payable during the lifetime of the named contingent annuitant;

21           (c) option 4--a continuation of the optional retirement benefit to one or more contingent annuitants in the  
22 event of the initial payee's death before the end of a period certain, determined as follows:

23           (i) the period certain commences at the time that the initial payee first begins receiving the retirement  
24 benefit and is available as either:

25           (A) a 10-year period certain if the member retired at 75 years of age or younger; or

26           (B) a 20-year period certain if the member retired at 65 years of age or younger;

27           (ii) if there is more than one surviving contingent annuitant, each contingent annuitant must receive a  
28 proportion of the initial payee's benefit on a share-and-share-alike basis;

29           (iii) if all surviving contingent annuitants die prior to the end of the period certain and the last remaining  
30 contingent annuitant has failed to name a designated beneficiary, the remaining payments must be converted

1 to an equivalent lump-sum amount and paid to the estate of the last surviving contingent annuitant.

2 (3) The member or designated beneficiary who elects an optional retirement benefit under subsection  
3 (2) shall file a written application with the board prior to the first payment of the benefit. A contingent annuitant  
4 must be identified on the application.

5 (4) If the member or designated beneficiary or the named contingent annuitant dies before the first  
6 payment has been made under option 2 or 3, the election of the option is automatically canceled.

7 (5) If the member dies after ~~retirement~~ terminating service and within 30 days ~~from~~ after the date that  
8 the member's written application electing or changing an election of an optional retirement benefit under  
9 subsection (2) is received by the board, the election is void.

10 (6) After the member or designated beneficiary has received and accepted an initial retirement benefit  
11 payment, the member may not change the selected option except as provided in subsection (7).

12 (7) A retired member receiving an optional retirement benefit pursuant to subsection (2)(a) or (2)(b) may  
13 file a written application with the board to have the member's optional retirement benefit revert to the regular  
14 retirement benefit available at the time of the member's retirement if:

15 (a) the original contingent annuitant has died, in which case the optional benefit must revert effective on  
16 the first day of the month following the contingent annuitant's death; or

17 (b) the member's marriage to the original contingent annuitant has been dissolved and the original  
18 contingent annuitant has not been granted the right to receive the optional retirement benefit as part of a family  
19 law order, as defined in 19-2-907. The benefit must then revert effective on the first day of the month following  
20 receipt of the written application and verification that the family law order does not grant the optional benefit to  
21 the original contingent annuitant.

22 (8) A member who applies to revert under subsection (7) shall, at the time of the application, choose one  
23 of the following alternatives:

24 (a) revert to the member's original option 1 retirement benefit, increased by the amount of any  
25 adjustments received by the member since the effective date of the member's retirement;

26 (b) retain the same option 2 or option 3 originally selected but name a new contingent annuitant; or

27 (c) select a different option under subsection (2) and name a new contingent annuitant.

28 (9) If the member selects an alternative under subsection (8)(b) or (8)(c), the member's retirement benefit  
29 must be calculated based on the member's and the new contingent annuitant's ages at the time of this election.

30 (10) A written application pursuant to subsection (7) must be filed with the board within 18 months of the

1 death of or dissolution of marriage to the contingent annuitant."  
2

3 **Section 18.** Section 19-5-802, MCA, is amended to read:

4 **"19-5-802. Payments upon death from other than employment-related cause.** (1) If ~~an active a~~  
5 vested member dies before reaching normal retirement age, the member's designated beneficiary is entitled to  
6 a monthly survivorship benefit that is the actuarial equivalent of the retirement benefit provided in 19-5-502.

7 (2) When a retired member not covered under 19-5-901 and receiving an option 1 retirement benefit  
8 under 19-5-701 dies, the member's designated beneficiary must be paid the amount, if any, of the member's  
9 accumulated contributions calculated as of the day of the member's retirement minus the total of any retirement  
10 benefits already paid from the member's account. At the designated beneficiary's request, the lump sum may be  
11 paid as an actuarially equivalent annuity that will not be subject to increases for any purpose.

12 (3) When a retired member covered under 19-5-901 and receiving an option 1 retirement benefit under  
13 19-5-701 dies, the member's designated beneficiary must be paid the amount, if any, of the member's  
14 accumulated contributions calculated as of the day of the member's retirement minus the total of any retirement  
15 benefits already paid from the member's account.

16 (4) If a retired member who elected an option 2 or 3 benefit under 19-5-701 dies with no surviving  
17 contingent annuitant, the member's designated beneficiary or, if there is no surviving designated beneficiary, the  
18 member's estate must be paid the amount, if any, of the member's accumulated contributions calculated as of  
19 the day of the member's retirement minus the total of any retirement benefits already paid from the member's  
20 account.

21 (5) This section does not apply if the member was receiving a disability benefit. The member's  
22 accumulated contributions may not be reduced by the disability benefits already paid unless the disability benefit  
23 was converted to a service retirement benefit pursuant to 19-2-406(5)."  
24

25 **Section 19.** Section 19-7-301, MCA, is amended to read:

26 **"19-7-301. Membership -- inactive vested members -- inactive nonvested members.** (1) (a) Except  
27 as provided in subsection (1)(b), each sheriff shall become a member of the sheriffs' retirement system.

28 (b) A sheriff who was a member of the public employees' retirement system on July 1, 1974, may remain  
29 a public employees' retirement system member or elect to become a member of the sheriffs' retirement system  
30 by filing a written election with the board at any time before retirement.



1 (2) (a) Except as provided in subsection (2)(b), an investigator shall become a member of the sheriffs'  
2 retirement system.

3 (b) An investigator who was a member of the public employees' retirement system on July 1, 1993, may  
4 remain in the public employees' retirement system or elect to become a member of the sheriffs' retirement system  
5 by filing a written election with the board at any time before retirement.

6 (3) (a) Except as provided in subsection (3)(b), a detention officer shall become a member of the sheriffs'  
7 retirement system.

8 (b) A detention officer who was a member of the public employees' retirement system on July 1, 2005,  
9 may remain in the public employees' retirement system or elect to become a member of the sheriffs' retirement  
10 system by filing a written election with the board before May 1, 2006.

11 (4) A member of the public employees' retirement system who begins employment in a position covered  
12 by the sheriffs' retirement system may remain in the public employees' retirement system or may elect to become  
13 a member of the sheriffs' retirement system by filing a written election with the board no later than ~~30~~ 90 days  
14 after beginning the employment.

15 (5) Failure to make an election as provided in subsection (4) is considered an election to remain in the  
16 public employees' retirement system.

17 ~~(5)(6)~~ A sheriff, investigator, or detention officer who elects to become a member of the sheriffs'  
18 retirement system must be an active member as long as actively employed in an eligible capacity, except as  
19 provided in 19-7-1101(2).

20 ~~(6)(7)~~ (a) An inactive member with at least 5 years of membership service is an inactive vested member  
21 and retains the right to purchase service credit and to receive a retirement benefit under the provisions of this  
22 chapter.

23 (b) If an inactive vested member chooses to take a lump-sum payment rather than a retirement benefit,  
24 the lump-sum payment consists of only the member's accumulated contributions and not the employer's  
25 contributions.

26 ~~(7)(8)~~ (a) An inactive member with less than 5 years of membership service is an inactive nonvested  
27 member and is not eligible for any benefits from the retirement system.

28 (b) An inactive nonvested member is eligible only for a refund of the member's accumulated  
29 contributions."  
30

1           **Section 20.** Section 19-7-410, MCA, is amended to read:

2           **"19-7-410. Contributions based on total compensation when member receives disability**  
 3 **compensation.** When a member receives compensation from both the member's employer and the workers'  
 4 compensation program ~~under the provisions of 7-32-2113~~, the member's compensation reported by the employer  
 5 is the same as if the member was in active service, and the member and employer contributions required by this  
 6 chapter must be calculated and paid on that total compensation."  
 7

8           **Section 21.** Section 19-7-503, MCA, is amended to read:

9           **"19-7-503. Service retirement benefit.** (1) The amount of any service retirement benefit granted to a  
 10 member is 2.5% of the member's highest average compensation for each year of service credit.

11           (2) When a retired member receiving an option 1 retirement benefit under 19-7-1001 dies, the member's  
 12 designated beneficiary or, if there is no surviving designated beneficiary, the member's estate must be paid the  
 13 amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement  
 14 minus the total of any retirement benefits already paid from the member's account.

15           (3) If a retired member who elected an option 2 or 3 benefit under 19-7-1001 dies with no surviving  
 16 contingent annuitant, the member's designated beneficiary or, if there is no surviving designated beneficiary, the  
 17 member's estate must be paid the amount, if any, of the member's accumulated contributions calculated as of  
 18 the day of the member's retirement minus the total of any retirement benefits already paid from the member's  
 19 account.

20           (4) This section does not apply if the member was receiving a disability benefit. The member's  
 21 accumulated contributions may not be reduced by the disability benefits already paid unless the disability benefit  
 22 was converted to a service retirement benefit pursuant to 19-2-406(5)."  
 23

24           **Section 22.** Section 19-7-1001, MCA, is amended to read:

25           **"19-7-1001. Optional forms of benefits -- designation of contingent annuitant.** (1) The retirement  
 26 benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted, in  
 27 lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of  
 28 the original benefit. If the member does not elect an optional retirement benefit pursuant to subsection (2), the  
 29 member's retirement benefit is known as an option 1 benefit.

30           (2) An optional retirement benefit under this subsection (2) is initially payable during the member's or

1 designated beneficiary's lifetime with a subsequent benefit, depending on the option selected, to a contingent  
2 annuitant, as follows:

3 (a) option 2--a continuation of the optional retirement benefit after the death of the initial payee and  
4 payable during the lifetime of the named contingent annuitant. This option may be the chosen benefit only if the  
5 adjusted age difference between the member or designated beneficiary and the contingent annuitant, other than  
6 the member's or designated beneficiary's spouse, is 10 years or less. The adjusted age difference is either:

7 (i) the excess of the age of the member or designated beneficiary over the age of the nonspouse  
8 contingent annuitant based on their ages on their birthdays in a calendar year; or

9 (ii) if the member or designated beneficiary is under 70 years of age, the age difference determined in  
10 subsection (2)(a)(i) reduced by the number of years that the member or designated beneficiary is under 70 years  
11 of age on the member's or beneficiary's birthday in the calendar year that contains the benefit starting date.

12 (b) option 3--a continuation of one-half of the optional retirement benefit after the death of the initial  
13 payee and payable during the lifetime of the named contingent annuitant;

14 (c) option 4--a continuation of the optional retirement benefit to one or more contingent annuitants in the  
15 event of the initial payee's death before the end of a period certain, determined as follows:

16 (i) the period certain commences at the time that the initial payee first begins receiving the retirement  
17 benefit and is available as either:

18 (A) a 10-year period certain if the member retired at 75 years of age or younger; or

19 (B) a 20-year period certain if the member retired at 65 years of age or younger;

20 (ii) if there is more than one surviving contingent annuitant, each contingent annuitant must receive a  
21 proportion of the initial payee's benefit on a share-and-share-alike basis;

22 (iii) if all surviving contingent annuitants die prior to the end of the period certain and the last remaining  
23 contingent annuitant has failed to name a designated beneficiary, the remaining payments must be converted  
24 to an equivalent lump-sum amount and paid to the estate of the last surviving contingent annuitant.

25 (3) The member or the designated beneficiary who elects an optional retirement benefit under subsection  
26 (2) shall file a written application with the board prior to the first payment of the benefit. A contingent annuitant  
27 must be identified on the application.

28 (4) If the member or designated beneficiary or the named contingent annuitant dies before the first  
29 payment has been made under option 2 or 3, the election of the option is automatically canceled.

30 (5) If the member dies after ~~retirement~~ terminating service and within 30 days ~~from~~ after the date that

1 the member's written application electing or changing an election of an optional retirement benefit under  
2 subsection (2) is received by the board, the election is void.

3 (6) After the member or designated beneficiary has received and accepted an initial retirement benefit  
4 payment, the member may not change the selected option except as provided in subsection (7).

5 (7) A retired member receiving an optional retirement benefit pursuant to subsection (2)(a) or (2)(b) may  
6 file a written application with the board to have the member's optional retirement benefit revert to the regular  
7 retirement benefit available at the time of the member's retirement if:

8 (a) the original contingent annuitant has died, in which case the optional benefit must revert effective on  
9 the first day of the month following the contingent annuitant's death; or

10 (b) the member's marriage to the original contingent annuitant has been dissolved and the original  
11 contingent annuitant has not been granted the right to receive the optional retirement benefit as part of a family  
12 law order, as defined in 19-2-907. The benefit must revert effective on the first day of the month following receipt  
13 of the written application and verification that the family law order does not grant the optional benefit to the  
14 contingent annuitant.

15 (8) A member who applies to revert under subsection (7) shall, at the time of the application, choose one  
16 of the following alternatives:

17 (a) revert to the member's original option 1 retirement benefit, increased by the amount of any  
18 adjustments received by the member since the effective date of the member's retirement;

19 (b) retain the same option 2 or option 3 originally selected but name a new contingent annuitant; or

20 (c) select a different option under subsection (2) and name a new contingent annuitant.

21 (9) If the member selects an alternative under subsection (8)(b) or (8)(c), the member's retirement benefit  
22 must be calculated based on the member's and the new contingent annuitant's ages at the time of the election.

23 (10) A written application pursuant to subsection (7) must be filed with the board within 18 months of the  
24 death of or dissolution of marriage to the contingent annuitant."  
25

26 **Section 23.** Section 19-8-302, MCA, is amended to read:

27 **"19-8-302. Public employees' retirement system -- transfer of membership.** (1) Except as provided  
28 in subsection (3), an eligible peace officer ~~must~~ shall become a member of the game wardens' and peace officers'  
29 retirement system on the first day of service.

30 (2) A person who is a member of the game wardens' and peace officers' retirement system assigned

1 to law enforcement who transfers to a position involving duties other than law enforcement within the same state  
 2 agency may retain membership in the game wardens' and peace officers' retirement system by filing a written  
 3 election with the board no later than 90 days after transfer to the new position.

4 (3) A person who is a member of the public employees' retirement system who transfers to a position  
 5 covered by the game wardens' and peace officers' retirement system may elect to become a member of the  
 6 retirement system or may continue membership in the public employees' retirement system by filing a written  
 7 election with the board no later than 90 days after transfer to the new position.

8 (4) Failure to make an election as provided in subsection (3) is considered an election to remain in the  
 9 public employees' retirement system."

10

11 **Section 24.** Section 19-8-801, MCA, is amended to read:

12 **"19-8-801. Optional forms of benefits -- designation of contingent annuitant.** (1) The retirement  
 13 benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted, in  
 14 lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of  
 15 the original benefit. If the member does not elect an optional retirement benefit pursuant to subsection (2), the  
 16 member's retirement benefit is known as an option 1 benefit.

17 (2) An optional retirement benefit under this subsection (2) is initially payable during the member's or  
 18 designated beneficiary's lifetime with a subsequent benefit, depending on the option selected, to a contingent  
 19 annuitant as follows:

20 (a) option 2--a continuation of the optional retirement benefit after the death of the initial payee and  
 21 payable during the lifetime of the named contingent annuitant. This option may be the chosen benefit only if the  
 22 adjusted age difference between the member or designated beneficiary and the contingent annuitant, other than  
 23 the member's or designated beneficiary's spouse, is 10 years or less. The adjusted age difference is either:

24 (i) the excess of the age of the member or designated beneficiary over the age of the nonspouse  
 25 contingent annuitant based on their ages on their birthdays in a calendar year; or

26 (ii) if the member or designated beneficiary is under 70 years of age, the age difference determined in  
 27 subsection (2)(a)(i) reduced by the number of years that the member or designated beneficiary is under 70 years  
 28 of age on the member's or beneficiary's birthday in the calendar year that contains the benefit starting date.

29 (b) option 3--a continuation of one-half of the optional retirement benefit after the death of the initial  
 30 payee and payable during the lifetime of the named contingent annuitant;

1 (c) option 4--a continuation of the optional retirement benefit to one or more contingent annuitants in the  
2 event of the initial payee's death before the end of a period certain, determined as follows:

3 (i) the period certain commences at the time that the initial payee first begins receiving the retirement  
4 benefit and is available as either:

5 (A) a 10-year period certain if the member retired at 75 years of age or younger; or

6 (B) a 20-year period certain if the member retired at 65 years of age or younger;

7 (ii) if there is more than one surviving contingent annuitant, each contingent annuitant must receive a  
8 proportion of the initial payee's benefit on a share-and-share-alike basis;

9 (iii) if all surviving contingent annuitants die prior to the end of the period certain and the last remaining  
10 contingent annuitant has failed to name a designated beneficiary, the remaining payments must be converted  
11 to an equivalent lump-sum amount and paid to the estate of the last surviving contingent annuitant.

12 (3) The member or the designated beneficiary who elects an optional retirement benefit under subsection  
13 (2) shall file a written application with the board prior to the first payment of the benefit. A contingent annuitant  
14 must be identified on the application.

15 (4) If the member or designated beneficiary or the named contingent annuitant dies before the first  
16 payment has been made under option 2 or 3, the election of the option is automatically canceled.

17 (5) If the member dies after ~~retirement~~ terminating service and within 30 days ~~from~~ after the date that  
18 the member's written application electing or changing an election of an optional retirement benefit under  
19 subsection (2) is received by the board, the election is void.

20 (6) After the member or designated beneficiary has received and accepted an initial retirement benefit  
21 payment, the member may not change the selected option except as provided in subsection (7).

22 (7) A retired member receiving an optional retirement benefit pursuant to subsection (2)(a) or (2)(b) may  
23 file a written application with the board to have the member's optional retirement benefit revert to the regular  
24 retirement benefit available at the time of the member's retirement if:

25 (a) the original contingent annuitant has died, in which case the optional benefit must revert effective on  
26 the first day of the month following the contingent annuitant's death; or

27 (b) the member's marriage to the original contingent annuitant has been dissolved and the original  
28 contingent annuitant has not been granted the right to receive the optional retirement benefit as part of a family  
29 law order, as defined in 19-2-907. The benefit must then revert effective on the first day of the month following  
30 receipt of the written application and verification that the family law order does not grant the optional benefit to

1 the original contingent annuitant.

2 (8) A member who applies to revert under subsection (7) shall, at the time of the application, choose one  
3 of the following alternatives:

4 (a) revert to the member's original option 1 retirement benefit, increased by the amount of any  
5 adjustments received by the member since the effective date of the member's retirement;

6 (b) retain the same option 2 or option 3 originally selected but name a new contingent annuitant; or

7 (c) select a different option under subsection (2) and name a new contingent annuitant.

8 (9) If the member selects an alternative under subsection (8)(b) or (8)(c), the member's retirement benefit  
9 must be calculated based on the member's and the new contingent annuitant's ages at the time of the election.

10 (10) A written application pursuant to subsection (7) must be filed with the board within 18 months of the  
11 death of or dissolution of marriage to the contingent annuitant."

12

13 **Section 25.** Section 19-8-1001, MCA, is amended to read:

14 **"19-8-1001. Benefits upon employment-related death.** If the board finds that a member died as a  
15 direct and proximate result of injury received in the course of the member's service, a monthly survivorship benefit  
16 must be paid to the member's designated beneficiary equal to 50% of the highest average compensation of the  
17 member. If the deceased member has completed more than 25 years of service credit, the survivorship benefit  
18 must equal ~~2%~~ 2.5% of the member's highest average compensation for each year of service credit."

19

20 **Section 26.** Section 19-8-1002, MCA, is amended to read:

21 **"19-8-1002. Postretirement death payments.** (1) When a retired member receiving an option 1  
22 retirement benefit under 19-8-801 dies, the member's designated beneficiary or, if there is no surviving  
23 designated beneficiary, the member's estate must be paid the amount, if any, of the member's accumulated  
24 contributions calculated as of the day of the member's retirement minus the total of any retirement benefits  
25 already paid from the member's account.

26 (2) If a retired member who elected an option 2 or 3 retirement benefit under 19-8-801 dies with no  
27 surviving contingent annuitant, the member's designated beneficiary or, if there is no surviving beneficiary, the  
28 member's estate must be paid the amount, if any, of the member's accumulated contributions calculated as of  
29 the day of the member's retirement minus the total of any retirement benefits already paid from the member's  
30 account.

1           (3) This section does not apply if the member was receiving a disability benefit. The member's  
 2 accumulated contributions may not be reduced by the disability benefits already paid unless the disability benefit  
 3 was converted to a service retirement benefit pursuant to 19-2-406(5)."

4

5           **Section 27.** Section 19-9-301, MCA, is amended to read:

6           **"19-9-301. Active membership -- inactive vested member -- inactive nonvested member.** (1) A  
 7 police officer becomes an active member of the retirement system:

8           (a) on the date the police officer's service with an employer commences;

9           (b) on July 1, 1977, if the police officer is employed by an employer on that date; or

10           (c) in the case of an employer that elects to join the retirement system, as provided in 19-9-207, on the  
 11 effective date of the election if the police officer is employed by the employer on that date. A person who is a  
 12 member of the public employees' retirement system on the date of the employer's election may remain in the  
 13 public employees' retirement system or may elect to become a member of the municipal police officers' retirement  
 14 system by filing an irrevocable written election with the board no later than 90 days after the date of the  
 15 employer's election.

16           (2) Failure to make an election as provided in subsection (1)(c) is considered an election to remain in  
 17 the public employees' retirement system.

18           ~~(2)~~(3) Upon becoming eligible for membership, the police officer shall complete the forms and furnish  
 19 the proof required by the board.

20           ~~(3)~~(4) A member becomes an inactive member on the first day of an approved absence from service of  
 21 a substantial duration.

22           ~~(4)~~(5) (a) An inactive member with at least 5 years of membership service is an inactive vested member  
 23 and retains the right to purchase service credit and to receive a retirement benefit under the provisions of this  
 24 chapter.

25           (b) If an inactive vested member chooses to take a lump-sum payment rather than a retirement benefit,  
 26 the lump-sum payment consists of only the member's accumulated contributions and not the employer  
 27 contributions.

28           ~~(5)~~(6) (a) An inactive member with less than 5 years of membership service is an inactive nonvested  
 29 member and is not eligible for any benefits from the retirement system.

30           (b) An inactive nonvested member is eligible only for a refund of the member's accumulated



1 contributions."

2

3 **Section 28.** Section 19-9-1206, MCA, is amended to read:

4 **"19-9-1206. Survivorship benefits.** (1) If a participant dies prior to the receipt of the DROP benefit  
5 pursuant to 19-9-1208, the participant's surviving spouse or dependent child is entitled to receive a lump-sum  
6 payment equal to the participant's DROP benefit ~~and the member's accumulated contributions minus any benefits~~  
7 ~~paid from the member's DROP account, including monthly DROP accruals as of the date of the member's death~~  
8 and the benefit the surviving spouse or dependent child would have received under 19-9-804 had the member  
9 retired rather than elected to participate in the DROP.

10 (2) If there is no surviving spouse or dependent child, the designated beneficiary is entitled to receive  
11 a lump-sum payment equal to the participant's DROP benefit as of the date of the member's death and the  
12 member's accumulated contributions minus any benefits paid from the member's account, including monthly  
13 DROP payments.

14 (3) The benefit paid pursuant to this section must include interest credited to the participant's account  
15 as follows:

16 (a) through June 30, 2009, interest must be credited every fiscal yearend at a rate reflecting the  
17 retirement system's annual investment earnings for the applicable fiscal year;

18 (b) after June 30, 2009, interest must be credited every fiscal yearend at the actuarially assumed rate  
19 of return. Proportionate interest must be credited for distributions taking place at other than a fiscal yearend."

20

21 **Section 29.** Section 19-17-112, MCA, is amended to read:

22 **"19-17-112. Filing required reports -- limitations.** (1) The chief or designated official of each fire  
23 company that claims eligibility under this chapter shall, on or before September 1 of each year, file with the board  
24 an annual certificate, the current year's roster, and a membership card for each new member.

25 (2) (a) The annual certificate is a form reporting a fire company's membership eligibility for the previous  
26 fiscal year.

27 (b) The annual certificate must be completed on a form prescribed by the board and contain the date  
28 of organization of the fire company and the full name, social security number, and date of birth of each member  
29 of the fire company who was a member for the entire fiscal year and who successfully completed 30 hours of  
30 training during the preceding fiscal year, as required by 19-17-108.

1 (c) The chief or designated official shall subscribe and verify that the fire company and members qualified  
2 under 19-17-108 and 19-17-109.

3 (d) The board shall maintain the certificate for the purpose of establishing service for members and  
4 eligibility for benefits.

5 (3) The roster must be signed by the fire chief or designated official, filed with the board, and contain  
6 information in writing that provides the names of the fire company, its date of organization, officers, and roll of  
7 active and inactive members for the current fiscal year. A roster may be updated to report new members but may  
8 not be retroactive.

9 (4) A membership ~~card~~ form must be completed and filed with the board for each member who was a  
10 member on or before July 1, 2011, and for each new member who joins after July 1, 2011.

11 (5) The current fire chief shall file any late or amended annual certificates and the associated certified  
12 training records within 3 years of the original annual certificate due date. An annual certificate may be amended  
13 only once. The board shall consider and may approve late filings. Information provided to the board by the fire  
14 chief must be in accordance with the board's rules.

15 (6) The current fire chief may request to appear before the board for consideration of the request to file  
16 a late or amended annual certificate."  
17

18 **Section 30.** Section 19-20-302, MCA, is amended to read:

19 **"19-20-302. Active membership.** (1) Unless otherwise provided by this chapter, the following persons  
20 employed by an employer must be active members of the retirement system:

21 (a) a person who is a teacher, principal, or district superintendent as defined in 20-1-101;

22 (b) a person who is an administrative officer or a member of the instructional or scientific staff of a unit  
23 of the Montana university system and who has not elected or is not required to participate in the university system  
24 retirement program under Title 19, chapter 21;

25 (c) a person employed as a speech-language pathologist, school nurse, professionally qualified person  
26 as defined in 20-7-901, paraprofessional who provides instructional support, dean of students, or school  
27 psychologist;

28 (d) a person employed in a teaching or an educational services capacity by the office of a county  
29 superintendent, an education cooperative, a public institution of the state of Montana, the Montana state school  
30 for the deaf and blind, or a school district;

- 1 (e) a person who is an administrative officer or a member of the instructional staff of the board of public  
2 education;
- 3 (f) the superintendent of public instruction or a person employed as a teacher or in an educational  
4 services capacity by the office of public instruction;
- 5 (g) except as provided in subsection (2), a person elected to the office of county superintendent of  
6 schools;
- 7 (h) a person who is an administrative officer or a member of the instructional or scientific staff of a  
8 community college; and
- 9 (i) a person employed in a nonclerical position and who is reported on an employer's annual data  
10 collection report submitted to the office of public instruction.
- 11 (2) A retired member elected to the office of county superintendent of schools or appointed to complete  
12 the term of an elected county superintendent of schools after July 1, 1995, is not eligible for optional membership  
13 in the public employees' retirement system under the provisions of 19-3-412 or [section 10] and shall, within 30  
14 days of taking office, file an irrevocable written election to become or to not become an active member of the  
15 teachers' retirement system. The retirement system membership of an elected county superintendent of schools  
16 as of June 30, 1995, must remain unchanged for as long as the person continues to serve in the capacity of  
17 county superintendent of schools.
- 18 (3) In order to be eligible for active membership, a person described in subsection (1) or (2) must:
- 19 (a) be employed in the capacity prescribed for the person's eligibility for at least 30 days in any fiscal  
20 year; and
- 21 (b) have the compensation for the person's creditable service totally paid by an employer.
- 22 (4) (a) A substitute teacher or a part-time teacher's aide:
- 23 (i) shall file an irrevocable written election determining whether to become an active member of the  
24 retirement system on the first day of employment; or
- 25 (ii) is required to become an active member of the retirement system after completing 210 hours of  
26 employment in any fiscal year if the substitute teacher or part-time teacher's aide has not elected membership  
27 under subsection (4)(a)(i).
- 28 (b) Once a part-time teacher's aide becomes a member, the aide is required to remain an active member  
29 as long as the aide is employed in that capacity. Once a substitute teacher becomes a member, the substitute  
30 teacher is required to remain a member as long as the teacher is available for employment in that capacity.

1 (c) The employer shall give written notification to a substitute teacher or part-time teacher's aide on the  
2 first day of employment of the option to elect membership under subsection (4)(a)(i).

3 (d) If a substitute teacher or part-time teacher's aide declines to elect membership during the election  
4 period, the teacher or part-time teacher's aide shall file a written statement with the employer waiving membership  
5 and the employer shall retain the statement.

6 (5) A school district clerk or business official may not become a member of the teachers' retirement  
7 system. A school district clerk or business official who is a member of the system on July 1, 2001, is required to  
8 remain an active member of the system while employed in that capacity, and any postretirement earnings from  
9 employment as a school district clerk or school business official are subject to the limit on earnings provided in  
10 19-20-731.

11 (6) At any time that a person's eligibility to become a member of the retirement system is in doubt, the  
12 retirement board shall determine the person's eligibility for membership. All persons in similar circumstances must  
13 be treated alike.

14 (7) As used in this section, "part-time teacher's aide" means an individual who works less than 7 hours  
15 a day assisting a certified teacher in a classroom.

16 (8) (a) An active member of the system concurrently employed in a position identified in subsection (1)(b)  
17 may not elect to participate in the university system retirement program under Title 19, chapter 21.

18 (b) An employee of the Montana university system who is a participant in the university system retirement  
19 program under Title 19, chapter 21, and who is concurrently employed in a position identified in subsections (1)(a)  
20 or (1)(c) through (1)(i) is ineligible to be an active member of this system."

21  
22 **NEW SECTION. Section 31. Repealer.** The following section of the Montana Code Annotated is  
23 repealed:

24 19-9-1020. One-time permanent ad hoc purchasing power adjustment.

25  
26 **NEW SECTION. Section 32. Codification instruction.** [Section 10] is intended to be codified as an  
27 integral part of Title 19, chapter 3, part 4, and the provisions of Title 19, chapter 3, part 4, apply to [section 10].

28  
29 **NEW SECTION. Section 33. Effective date.** [This act] is effective January 1, 2016.

30 - END -