## HOUSE BILL NO. HB0072

Volunteer firefighter and EMT pension account.

Sponsored by: Joint Appropriations Interim Committee

## A BILL

## for

AN ACT relating to pension accounts; creating the volunteer 1 2 firefighter and EMT pension account; providing membership qualifications; providing for contributions to the account; 3 providing for the transfer of members of the volunteer 4 firemen's pension account and the volunteer emergency 5 medical technician pension account to the new pension 6 7 account; creating a pension account board; providing for 8 membership on the board; closing and repealing the 9 volunteer firemen's pension account and the volunteer emergency medical technician pension account; directing 10 11 insurance premiums to the account as specified; providing legislative intent; providing for a transfer of pension 12 13 funds; requiring a report; and providing for an effective 14 date.

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16 Be It Enacted by the Legislature of the State of Wyoming:

1 2 Section 1. W.S. 35-9-616 through 35-9-628 are created 3 to read: 4 5 ARTICLE 6 6 VOLUNTEER FIREFIGHTER AND EMT PENSION ACCOUNT 7 35-9-616. Definitions. 8 9 10 (a) As used in this act: 11 12 (i) "Account" or "pension account" means the volunteer firefighter and EMT pension account created 13 pursuant to W.S. 35-9-617(a); 14 15 16 (ii) "Board" means the volunteer firefighter and 17 EMT pension account board created pursuant to W.S. 18 35-9-623(a); 19 20 (iii) "Children" means all natural children and 21 adopted children of the participating member, born or conceived at the time of his death or retirement; 22 23

1 (iv) "Eligible retirement plan" means as defined in W.S. 9-3-402(a)(xxvii); 2 3 4 (v) "Entry age" means the earliest date from which contributions have been received by the account for 5 the participating member; 6 7 (vi) "Participating member" means any volunteer 8 firefighter or volunteer EMT for whom payments are received 9 10 by the volunteer firefighter and EMT pension account as prescribed in W.S. 35-9-621(e); 11 12 (vii) "Rollover contribution" means as defined 13 14 in W.S. 9-3-402(a)(xxviii); 15 16 (viii) "Spouse" means the lawful spouse of a participating member who was married to the volunteer 17 18 firefighter or volunteer EMT at the time of the volunteer 19 firefighter or volunteer EMT's entry into the account, or 20 who although married after the date of entry, is recognized 21 as the spouse covered by the benefits of the account as a 22 result of special action of the board;

1 (ix) "Volunteer emergency medical technician" or 2 "EMT" means as defined by W.S. 33-36-102(a)(x), and a 3 person who performs EMT services as an attendant with a 4 state licensed ambulance service and who devotes less than his entire time of employment to, but is carried on the 5 rolls of, a regularly constituted Wyoming ambulance 6 service, the members of which may be partly paid and partly 7 8 volunteer. Persons performing EMT services for an 9 industrial ambulance service as defined in W.S. 10 33-36-102(a)(vi) or a privately owned, for profit ambulance 11 service shall not be considered a volunteer emergency 12 medical technician or EMT. Payment of compensation for services actually rendered by enrolled volunteers does not 13 take them out of this classification. Any individual who 14 15 volunteers assistance but is not regularly enrolled as an 16 EMT is not a volunteer within the meaning of this chapter; 17 18 (x) A "volunteer fire department" means any duly 19 constituted and organized firefighting unit: 20 21 (A) Recognized by the appropriate local government with jurisdiction of the area the unit services 22

23 and which provides fire protection services to the

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community as a whole pursuant to a contract or agreement 1 2 with, or as sponsored by, a governmental entity; 3 4 (B) Operating under duly adopted bylaws; 5 6 (C) All or a portion of the members of which are volunteers; 7 8 9 (D) Holding monthly meetings to conduct business and training; and 10 11 12 (E) The membership of which is not comprised exclusively of employees of a sponsoring 13 nongovernmental entity. 14 15 16 (xi) "Volunteer firefighter" or "firefighter" 17 any individual who may or may not receive means compensation for services rendered as a volunteer 18 19 firefighter and who: 20 21 (A) Is carried on the regular rolls of, but devotes less than his entire time of employment to, 22

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activities of a volunteer fire department, all or a portion 1 2 of the members of which are volunteer; and 3 4 (B) During the course of any one (1) year, attends not less than fifty percent (50%) of the monthly 5 volunteer fire department meetings. 6 7 (xii) "This act" means W.S. 35-9-616 through 8 35-9-628. 9 10 11 35-9-617. Volunteer firefighter and EMT pension 12 account; merger with other pension accounts; membership. 13 14 (a) The volunteer firefighter and EMT pension account is created. All awards, benefits and pensions established 15 16 under this article shall be paid from the account. 17 (b) The account established under subsection (a) of 18 19 this section shall be controlled by the board and 20 administered by the director of the Wyoming retirement 21 system. All expenses of administration shall be paid from the account. Disbursements from the account shall be made 22

only upon warrants drawn by the state auditor upon
 certification by authorized system employees.

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4 (c) The account shall be comprised of all funds and liabilities of the volunteer firemen's pension account 5 created pursuant to W.S. 35-9-602, the volunteer emergency 6 medical technician pension account created pursuant to W.S. 7 8 35-29-102, funds directed into the account as provided by W.S. 26-4-102(b), 35-9-619(a), 35-9-621(e) and 35-9-628 and 9 10 all other funds as directed by this article and the legislature for the benefit of the account, or 11 the 12 volunteer firemen's pension account or volunteer emergency 13 medical technician pension account, respectively.

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15 (d) All members and retirees of the volunteer 16 emergency medical technician pension account created pursuant to W.S. 35-29-101 through 35-29-112, including 17 18 members who are no longer participating or those 19 contributing members of the volunteer emergency medical 20 technician pension account, but who have not withdrawn 21 their funds as provided by W.S. 35-29-106(f) on or before June 30, 2015, shall become members or retirees of the 22 23 pension account created pursuant to this section.

2	(e) All members and retirees of the volunteer
3	firemen's pension account created pursuant to W.S. 35-9-601
4	through 35-9-615, including those contributing members who
5	are no longer active but who have not withdrawn their funds
6	as provided by W.S. 35-9-608(f) on or before June 30, 2015,
7	shall become members or retirees of the pension account
8	created pursuant to this section.
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10	(f) The director of the retirement system shall
11	determine by rule and regulation a benefit level for all
12	members joining the pension account under subsections (d)
13	and (e) of this section equal to or greater than the
14	benefits the member would have received under the volunteer
15	firemen's or volunteer emergency medical technician pension
16	accounts, respectively.
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18	35-9-618. Annual audit; state's liability.
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20	(a) The director of the Wyoming retirement system
21	shall hire an independent audit firm to perform an annual
22	audit of the account established under W.S. $35-9-617$ and
23	shall report audit findings to the board and the governor.

2 The account created by W.S. 35-9-617 shall be (b) 3 administered without liability on the part of the state 4 beyond the amount of the funds available to the account. 5 (c) If the account is terminated, all affected 6 members have a nonforfeitable interest in their benefits 7 8 that were accrued and funded to date. The value of the accrued benefits to be credited to the account of each 9 10 affected member shall be calculated as of the date of 11 termination. 12 35-9-619. Authority to receive donations; investment 13 of monies; employment of actuary; actuarial reports. 14 15 16 (a) In addition to contributions from the state, volunteer fire departments and licensed ambulance services, 17 the board may receive and credit to the account any gifts, 18 19 donations and other contributions made by individuals, 20 organizations and cities, towns, counties and other 21 political subdivisions for the benefit of the account. The 22 board may invest monies within the account not immediately

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1 necessary to pay benefits, awards or pensions under this 2 article, in investments authorized under W.S. 9-3-408(b).

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4 (b) The board shall employ a consulting actuary to review the account annually to determine its solvency and 5 to make recommendations as to revisions and modifications 6 to the pension account. The board may employ legal and 7 8 other consultants as necessary. Actuarial reports are public records and available for inspection by 9 all 10 participating members of the account.

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12 35-9-620. Contributions on behalf of volunteer 13 firefighters and EMTs; collection; dual participation 14 prohibited.

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16 The county, city, town, fire district, volunteer (a) fire department or licensed ambulance service for whom a 17 18 participating volunteer firefighter or EMT performs 19 firefighting or EMT services shall pay to the pension 20 account the amount required under W.S. 35-9-621(e). 21 Payments shall be collected upon terms and conditions established by the board under W.S. 35-9-621(e) and shall 22 23 be forwarded by each collecting officer to the state

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retirement director for deposit in the account. Any entity 1 2 listed in this subsection may elect to provide for a 3 member's contribution or any portion thereof provided that 4 any payment of a contribution is made on behalf of a member. Whether an entity makes a contribution for a member 5 shall be at the discretion of the entity as an incentive to 6 improve their local volunteer fire department or emergency 7 8 medical services.

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10 (b) No volunteer firefighter member of the pension 11 account shall participate as a member of the firemen's 12 pension accounts under W.S. 15-5-201 through 15-5-209 or 13 15-5-401 through 15-5-422 if participation is based upon 14 covered service for the same fire department.

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16 35-9-621. Benefits enumerated; death of participant 17 or spouse; amount and payment of contributions; death 18 benefits; withdrawal from pension account.

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20 (a) For any participating member attaining the 21 retirement age as specified under subsection (d) of this 22 section, the board shall authorize a monthly payment to the 23 member during the member's remaining lifetime of an amount

1 equal to sixteen dollars (\$16.00) per year of service for 2 the first ten (10) years of service and nineteen dollars 3 (\$19.00) per year of service over ten (10) years of 4 service.

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(b) When any member dies, the board shall immediately 6 authorize payment monthly to the member's surviving spouse 7 8 during the spouse's remaining lifetime of an amount equal 9 to sixty-six percent (66%) of the member's monthly benefit as provided in this section, if the deceased member had 10 11 more than five (5) years of active participation in the 12 pension account. If a member dies with less than five (5) 13 years of active participation in the pension account, the 14 board shall immediately authorize payment monthly to the 15 member's spouse, during the spouse's remaining lifetime, of 16 amount equal to sixty-six percent (66%) of the an 17 equivalent of the deceased member's benefit as if the 18 member had attained five (5) years of active participation 19 in the pension account.

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(c) When any member and the member's spouse die with children who have not attained the age of twenty-one (21) years, the board shall immediately authorize payment

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monthly to the lawful quardians of the children of an 1 2 amount equal to a proportional share of thirty-three 3 percent (33%) of the member's benefit as provided in this 4 section, if the deceased member had more than five (5) 5 years of active participation in the pension account. If a member and the member's spouse die with children who have 6 not attained the age of twenty-one (21) years, and the 7 8 deceased member had less than five (5) years of active 9 participation in the pension account, the board shall 10 immediately authorize payment monthly to the lawful 11 guardians of the children of an amount equal to a 12 proportional share of thirty-three percent (33%) of the 13 equivalent of the deceased member's benefit as if the member had attained five (5) years of active participation 14 15 in the pension account.

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17 (d) Members who begin to participate in the pension account prior to attaining the age of fifty-five (55) years 18 19 shall be eligible for retirement at sixty (60) years of 20 age, if the member has at least five (5) years of active 21 participation in the pension account. Members who begin participation in the pension account after attaining the 22 23 age of fifty-five (55) years shall be eligible for

retirement after participating in the pension account for
 at least five (5) years.

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4 (e) A volunteer firefighter or volunteer EMT is a participating member under this article for each month a 5 contribution of fifteen dollars (\$15.00) is made by or on 6 behalf of the member. For purposes of eligibility for 7 8 benefits under subsections (b) and (c) of this section, a 9 volunteer firefighter or EMT is a participating member 10 beginning the first month following the month in which the 11 required monthly payment and any required application for 12 participation is actually received by the Wyoming retirement system. To continue as a participating member, 13 subsequent monthly payments shall be received by the 14 Wyoming retirement system not later than three (3) months 15 16 following the close of the calendar month for which the 17 payments are applicable. With the consent of and upon any 18 terms and conditions established by the board, payments may 19 be accepted at an earlier or later date. The board shall 20 maintain full and complete records of the contributions 21 made on behalf of each participating member and on request, shall furnish any participating member a statement of the 22 contribution amounts and the dates for which contributions 23

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On the death or retirement of 1 received. were any 2 participating member, the deceased member's entry age shall 3 be determined by the board. If contributions have varied in 4 amount, the board may make appropriate adjustments in the benefits awarded. In making any adjustment, the board shall 5 be guided by actuarial practice to afford substantial 6 equity to members of the pension account. No penalty shall 7 8 imposed upon any participating member transferring be 9 employment in Wyoming if required payments are made on a 10 timely basis.

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12 (f) A participating member may withdraw from the 13 pension account and upon withdrawal shall be paid an amount 14 equal to the amount contributed into the member's account 15 together with interest at the rate of three percent (3%) 16 per annum compounded annually.

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18 (g) If a member with less than five (5) years of 19 active participation in the pension account fails to 20 provide contributions to the account as provided in 21 subsection (e) of this section, the member's account shall shall accrue 22 be deemed delinquent. No interest on 23 delinquent accounts. A member's account that remains

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delinquent for nine (9) months shall be closed and the associated funds shall revert into the pension account. A member whose account is closed pursuant to this subsection who subsequently reenrolls in the pension account shall be entitled to a refund equal to the amount that was reverted into the pension account upon the closing of the member's delinquent account.

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9 (h) The board shall authorize benefit payments from 10 the account in accordance with qualified domestic relations 11 orders pursuant to W.S. 9-3-426.

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13 (j) If any participating member with at least five 14 (5) years of participation in the pension account retires 15 from active service as a volunteer firefighter or EMT 16 before reaching retirement age and does not withdraw from the pension account as provided in subsection (f) of this 17 18 section, upon reaching the retirement age specified in 19 subsection (d) of this section, he shall receive a monthly 20 pension payment equal to sixteen dollars (\$16.00) per year 21 of service for the first ten (10) years of service and nineteen dollars (\$19.00) per year of service over ten (10) 22 23 years for each year of service during which contributions

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were made on behalf of the member to the pension account. A 1 2 member with ten (10) or more years of active participation 3 in the pension account may choose to remove himself from 4 active service as a volunteer firefighter or EMT and continue to contribute to the pension account for an amount 5 of time not to exceed the total number of years the member 6 was an active participant in the pension account, as 7 8 provided in subsection (e) of this section and rules 9 promulgated by the board.

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(k) The board shall adopt rules to allow service for any period of time, after commencement of participation under this article, which a participating member spends in active military or other emergency service of the United States as required by the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301 et seq. to count towards a member's years of active participation.

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(m) Upon the death of any participating member, a death benefit shall be paid from the deceased member's account in the following manner and amount:

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(i) A lump sum payment of five thousand dollars
 (\$5,000.00) or the amount in the deceased member's account,
 whichever is greater, to the estate of a deceased member
 without a survivor eligible for a benefit under subsection
 (b) or (c) of this section;

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(ii) If a spouse who is eligible to receive a 7 8 benefit under subsection (b) of this section dies, an amount equal to five thousand dollars (\$5,000.00) less the 9 total amount of benefits received under subsection (b) of 10 11 this section or the amount remaining in the deceased 12 member's account, whichever is greater, shall be paid to 13 the spouse's estate unless the spouse is survived by a person eligible to receive a benefit under subsection (c) 14 15 of this section;

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(iii) When the last person under the age of twenty-one (21) years who is eligible for the benefit provided by subsection (c) of this section dies or attains the age of twenty-one (21) years, an amount equal to five thousand dollars (\$5,000.00) less the total amount of benefits received under subsections (b) and (c) of this section or the amount remaining in the deceased member's

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1 account, whichever is greater, shall be paid in equal 2 shares to each of the children alive on that date; 3

4 (iv) For former members of the volunteer 5 firemen's account created pursuant to W.S. 35-9-602(a) who 6 contributed five dollars (\$5.00) per month before July 1, 7 1989, the appropriate benefit shall be determined by 8 substituting two thousand five hundred dollars (\$2,500.00) 9 for five thousand dollars (\$5,000.00) in paragraphs (i) 10 through (iii) of this subsection.

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12 (n) Cost of living increases may be recommended by 13 the board for retirees of the pension account pursuant to 14 W.S. 9-3-454(a).

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16 (o) Retired recipients of the account and their 17 survivors shall receive any benefit increases provided to 18 members of the account.

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20 35-9-622. Death benefits in addition to other
21 benefits.

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Death benefits received under this article shall be in 1 2 addition to, and are payable after the application of, 3 worker's compensation benefits which are payable to 4 volunteer firefighters or volunteer EMTs under the Wyoming 5 Worker's Compensation Act. 6 7 35-9-623. Board; established; nomination; 8 appointment; terms and qualification of members; first 9 members. 10 11 (a) The volunteer firefighter and EMT pension board 12 is created. The board shall control the account. 13 (b) The board shall consist of seven (7) members who 14 shall be appointed by the governor to staggered terms of 15 16 three (3) years. The governor may remove any board member as provided in W.S. 9-1-202. Of these board members: 17 18 19 (i) Six (6) members shall be volunteer 20 firefighters who have a minimum of five (5) years service 21 as a volunteer firefighter in the state. Appointments under this paragraph shall be made from nominees recommended to 22

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1 the governor by the Wyoming state firemen's association; 2 and

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4 (ii) One (1) member shall be a volunteer EMT who 5 has a minimum of five (5) years service as a volunteer EMT 6 in the state. Appointments under this paragraph shall be 7 made by the governor.

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9 The members of the initial board shall be (C) comprised of the volunteer firemen members of the volunteer 10 11 firemen's pension board created pursuant to W.S. 35-9-610 12 serving on June 30, 2015 and one (1) member of the 13 volunteer emergency medical technician pension board created pursuant to W.S. 35-29-108 serving on June 30, 14 15 2015, as selected by the governor. The volunteer 16 firefighter members and volunteer EMT member of the initial board shall serve for the same term to which they were 17 appointed to the volunteer firemen's pension board or 18 19 volunteer emergency medical technician pension board, 20 respectively.

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35-9-624. Board; chairman; compensation of members;
powers and duties.

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2 (a) Members of the board shall serve without 3 compensation, but actual and reasonable expenses incurred 4 by members for attending meetings and representing the board shall be reimbursed from the account. 5 6 7 (b) The board may: 8 (i) Adjust claims made by participating members 9 under this article and may waive or alter specific 10 requirements relating to benefits under this article, but 11 12 shall not have authority to make a general increase in 13 benefits; 14 15 (ii) Promulgate rules and regulations governing 16 its operation; 17 (iii) Investigate claim applications, conduct 18 19 hearings, receive evidence and otherwise act in a quasi-20 judicial capacity in accordance with the Wyoming Administrative Procedure Act; 21 22

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1 (iv) Permit the suspension of payments in 2 certain cases deemed appropriate by the board, with a 3 commensurate reduction in benefits paid under this article. 4 35-29-625. Board; hearings; appeals. 5 6 (a) The board shall provide an opportunity for 7 8 hearing to any person petitioning the board for a hearing with or without counsel or witnesses. The board shall 9 10 provide petitioners the power to subpoena witnesses to 11 testify in their behalf. The taking of evidence shall be 12 summary, giving a full opportunity to all parties to 13 develop the facts. The board shall provide a written transcript of all testimony received at any hearing 14 15 conducted by the board to any requesting party. 16 17 (b) The decision of the board upon hearing is a final administrative decision and is subject to judicial review 18 19 in accordance with the Wyoming Administrative Procedure 20 Act. 21

35-9-626. Adjustment of benefits in case of
impairment of funds.

1 If at any time the net assets of the account become 2 3 actuarially impaired, the board may adjust the benefits 4 provided, pro rata, until the impairment is removed. 5 6 35-9-627. Purchase of service credit. 7 8 Any member who has been a participating member for at least 9 five (5) years may elect to make a one (1) time purchase of 10 up to five (5) years of service credit as authorized and limited by section 415(c) and 415(n) of the Internal 11 12 Revenue Code and as established in rules promulgated by the 13 board. Any member electing to purchase service credit 14 shall pay into the account a single lump sum amount equal 15 to the actuarial equivalent of the benefits to be derived 16 from the service credit computed on the basis of actuarial assumptions approved by the board, the individual's 17 18 attained age and the benefit structure at the time of 19 purchase. A member may purchase service credit with 20 personal funds or, subject to rules and regulations 21 established by the board, through rollover contributions. Unless received by the pension account in the form of a 22 23 direct rollover, rollover contributions shall be paid to

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the pension account on or before sixty (60) days after the 1 2 date the rollover contribution was received by the member. 3 4 35-9-628. Deposit of tax on fire insurance premiums 5 into account. 6 (a) The state treasurer shall deposit into the 7 8 account an amount not to exceed seventy percent (70%) of 9 the gross tax levied upon fire insurance premiums paid to 10 insurance companies for fire insurance in the state of 11 Wyoming for the preceding calendar month, as computed under 12 W.S. 26-4-102(b)(ii) and provided by W.S. 26-4-103(k). The 13 sum specified shall be calculated by the Wyoming retirement 14 system: 15 16 (i) Before giving effect to any premium tax credits which may otherwise be provided by law; and 17 18 19 (ii) To achieve actuarial soundness of the

account by 2025, taking into account the benefits and employee contribution specified in W.S. 35-9-621 and actuarial assumptions adopted by the Wyoming retirement board.

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1 Section 2. W.S. 9-12-1305(c) and 26-4-102(b)(ii) are 2 3 amended to read: 4 5 9-12-1305. Wyoming small business investment credit. 6 (c) The credit for any tax year shall not exceed the 7 participating investor's state premium tax liability for 8 that tax year. If the amount of the credit determined 9 10 under this section for any tax year exceeds the liability 11 for tax under this chapter, the credit may be carried 12 forward to future tax years without limitation. The premium tax credits provided by W.S. 26-19-312, 26-42-111 13 14 and 26-43-105, and deposits to the volunteer firemen's 15 firefighter's and EMT pension account pursuant to W.S. 16 26-4-102(b)(ii), shall take priority over the premium tax credits provided by this section and shall be calculated 17 18 using the gross premium tax before the credits provided by 19 this section. 20 21 26-4-102. Record of receipts; payment to treasurer; 22 credit to fund.

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1 (b) The commissioner shall promptly pay all monies he 2 receives from any charges to the state treasurer for credit 3 to the general fund, except that:

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5 (ii) Fifty percent (50%) Seventy percent (70%) of the gross premium tax levied upon fire insurance 6 premiums shall be deposited by the state treasurer in the 7 8 volunteer firemen's firefighter and EMT pension account 9 pursuant to W.S. 35-9-604 35-9-628. For purposes of this 10 paragraph, the gross premium tax levied upon fire insurance 11 premiums is equal to twenty-six percent (26%) thirty 12 percent (30%) of the total gross premium tax levied upon 13 all property, casualty and multiple line insurers.

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15 Section 3. W.S. 35-9-601 through 35-9-615 and 16 35-29-101 through 35-29-112 are repealed.

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18 Section 4. The Wyoming retirement system and the 19 state treasurer shall transfer all funds within the 20 volunteer firemen's pension account created pursuant to 21 W.S. 35-9-602(a) and the volunteer emergency medical 22 technician pension account created pursuant to W.S.

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35-29-102(a) to the volunteer firefighter and EMT pension
 account created pursuant to this act.

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4 Section 5. It is the intent of the legislature that 5 all members and retirees of the volunteer firemen's pension 6 account and volunteer emergency medical technician pension 7 account on June 30, 2015 shall be able to continue to 8 participate in the pension account created by this act.

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10 Section 6.

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(a) The volunteer firefighter and EMT pension board,
with the assistance and input of the Wyoming retirement
system, shall provide the joint appropriations interim
committee with a report no later than December 1, 2015.
The report shall contain:

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18 (i) An update on enrollment under the pension 19 account created by this act and any difficulties 20 encountered therein;

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(ii) An update on the transfer of members andretirees of the volunteer firemen's pension account and the

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1 volunteer emergency medical technician pension account,
   respectively, and any difficulties encountered therein;
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             (iii) The projected actuarial soundness of the
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   account; and
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              (iv) Any proposed statutory changes necessary to
    administer the pension account.
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         Section 7. This act is effective July 1, 2015.
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