

1 SENATE BILL NO. 389

2 INTRODUCED BY B. HOVEN

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PUBLIC EMPLOYEES' RETIREMENT
5 SYSTEM POLICY; ESTABLISHING A TIER THREE FOR NEW HIRES IN THE PUBLIC EMPLOYEES'
6 RETIREMENT SYSTEM; REQUIRING THE PUBLIC EMPLOYEES' RETIREMENT BOARD TO ESTABLISH
7 ANNUALLY AN INTEREST CREDIT RATE; PROVIDING DEATH AND DISABILITY BENEFITS FOR TIER
8 THREE MEMBERS; REQUIRING A MEMBER TO ELECT A CONTRIBUTION RATE AT THE TIME OF HIRE;
9 ESTABLISHING A GRADED VESTING SCHEDULE FOR EMPLOYER MATCH; PROVIDING FOR A
10 POSTRETIREMENT EMPLOYMENT AND THE PURCHASE OF PREVIOUS SERVICE CREDIT IN THE NEW
11 TIER; ESTABLISHING MINIMUM AND MAXIMUM INTEREST CREDIT RATES; GRANTING THE BOARD
12 THE POWER AND DUTY TO ADMINISTER THE NEW TIER; REQUIRING OVERSIGHT BY THE STATE
13 ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE; REQUIRING THE BOARD TO SEEK
14 A RULING OF THE INTERNAL REVENUE SERVICE; PROVIDING FOR AN ALTERNATE RETIREMENT
15 SYSTEM MATCH FOR VESTING BASED ON A RULING FROM THE INTERNAL REVENUE SERVICE;
16 REQUIRING THE BOARD TO CERTIFY WHEN THE NEW TIER IS OPERATIONAL; PROVIDING
17 RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AMENDING SECTIONS 19-2-303, 19-2-710, 19-3-
18 108, 19-3-315, 19-3-401, 19-3-522, 19-3-901, 19-3-902, 19-3-904, 19-3-906, 19-3-909, 19-3-1002, 19-3-1016,
19 19-3-1106, 19-3-1112, 19-3-1202, 19-3-1203, 19-3-1204, 19-3-1205, 19-3-1607, AND 19-3-2141, MCA; AND
20 PROVIDING A CONTINGENT EFFECTIVE DATE."

21

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

23

24 NEW SECTION. Section 1. Definitions. Unless the context requires otherwise, as used in [sections
25 1 through 11], the following definitions apply:

26 (1) "Interest credit" means the amount of interest credited under [section 2] to a member's
27 contributions.

28 (2) "Member" means a tier three member of the retirement system's defined benefit plan.

1 (3) "Vested cash balance amount" means the amount that a vested member is entitled to receive
2 under [section 5].

3
4 **NEW SECTION. Section 2. Interest credit for tier three -- minimum and maximum interest credit**
5 **rates.** (1) Each month, the board shall credit to each tier three member's annuity savings account an interest
6 credit, which must be compounded annually.

7 (2) The board shall set the rate of the interest credit for the tier three members annually pursuant to
8 the following requirements:

9 (a) The rate may not be lower than 4% or greater than 9%.

10 (b) The board may not set the rate higher than 4% if the retirement system was judged to be
11 actuarially unsound as of the date of the most recent actuarial valuation.

12
13 **NEW SECTION. Section 3. Termination of membership -- withdrawal or rollover.** (1) After
14 terminating service, a nonvested member may terminate membership in the retirement system by electing a
15 refund under the applicable provisions of 19-2-602.

16 (2) After terminating employment, a vested member may terminate membership in the retirement
17 system by:

18 (a) withdrawing the member's vested cash balance amount as a lump sum; or

19 (b) making a direct rollover to another eligible retirement plan.

20 (3) If a member elects a rollover under this section, any amount that is not eligible to roll over must be
21 paid as a direct lump sum.

22
23 **NEW SECTION. Section 4. Redeposits -- service credit.** (1) An employee hired into covered
24 employment who was previously a member and withdrew the member's accumulated contributions or vested
25 cash balance amount may redeposit the amount withdrawn in a manner prescribed by the board.

26 (2) The employee must be credited with the membership service that is represented by the amount
27 redeposited.

28 (3) The amount redeposited on the interest credited on that amount is not eligible for the percentage

1 match under [section 5].

2

3 **NEW SECTION. Section 5. Tier three member vesting schedule for contribution match.** (1) If
4 this subsection is approved by the internal revenue service pursuant to [section 10], a tier three member has a
5 right to a retirement system contribution match of the member's accumulated contributions according to the
6 following schedule:

7 (a) For 5 years of creditable service, the member must receive a 25% match.

8 (b) For 6 through 10 years of creditable service, the member must receive an additional 5% match for
9 each full year of service.

10 (c) For 11 through 15 years of creditable service, the member must receive an additional 10% match
11 for each full year of service.

12 (d) A member with 15 or more years of creditable service must receive a 100% retirement system
13 match of the member's accumulated contributions.

14 (2) If the provisions of subsection (1) are not approved by the internal revenue service pursuant to
15 [section 10], a tier three member has a right to a retirement system match of 100% of the member's
16 accumulated contributions after the member has earned at least 10 years of creditable service.

17

18 **NEW SECTION. Section 6. Tier three member contributions -- written election required for**
19 **additional contribution -- failure to elect -- effect of election.** (1) A tier three member shall make the normal
20 contributions to the retirement system as required in 19-3-315.

21 (2) In addition to the normal contribution rate, a tier three member may elect to make an additional
22 contribution of 0.5% of the member's earned compensation.

23 (3) Elections made pursuant to this section must be made at the beginning of employment on a form
24 prescribed by the board.

25 (4) A member failing to make an election prescribed by this section must be considered to have
26 elected not to make the additional contribution.

27 (5) An election under this section, including the default election pursuant to subsection (3), is a one-
28 time, irrevocable election.

1 (6) (a) A member who elects the additional contribution and has accrued at least 30 years of
2 creditable service at the time of retirement, withdrawal, or death must receive a contribution match on the
3 additional 0.5% of earned compensation contributed by the member.

4 (b) A member who elects the additional contribution and has accrued less than 30 years of creditable
5 service at the time of retirement, withdrawal, or death may not receive a contribution match on the additional
6 0.5% of earned contribution contributed by the member.

7
8 **NEW SECTION. Section 7. Retirement benefit distribution options.** (1) A vested member who is
9 at least 60 years of age may elect to receive a retirement benefit that is the actuarial equivalent of the member's
10 cash balance amount payable as an annuity for the life of the member or payable under option 2, 3, or 4 as
11 provided in 19-3-1501.

12 (2) To receive a retirement benefit under this section, the member must have terminated service.

13 (3) A member receiving a benefit under this section is a retired member.

14

15 **NEW SECTION. Section 8. Reemployment after retirement -- rulemaking.** (1) If a member
16 receiving an annuity under [section 7] is reemployed in a covered position, the member's annuity payments
17 must be terminated.

18 (2) The board shall adopt rules specifying the extent to which a member may redeposit amounts
19 received by the member under [section 7]. If a member makes a redeposit, the member must receive
20 membership service credit proportional to the amount redeposited.

21 (3) The amount redeposited and the interest credited are not eligible for the percentage match under
22 [section 5].

23

24 **NEW SECTION. Section 9. Tier three disability and death benefits -- eligibility for benefits.** (1)

25 (a) The designated beneficiary of a nonvested member who dies before retirement is entitled to receive a lump-
26 sum payment of the member's accumulated contributions.

27 (b) The designated beneficiary of a vested member who dies before retirement is entitled to receive a
28 lump-sum payment of the member's vested cash balance amount.

1 (2) (a) A nonvested member who becomes disabled is entitled to receive a lump-sum payment of the
2 member's accumulated contributions.

3 (b) A vested member who becomes disabled is entitled to receive a lump-sum payment of the
4 member's vested cash balance amount or a distribution of the member's vested cash balance amount payable
5 as provided in [section 7].

6 (c) The board shall determine a person's eligibility for disability benefits under this subsection (2)
7 according to rules adopted by the board.

8
9 **NEW SECTION. Section 10. Board to seek commissioner's ruling or determination --**
10 **certification.** (1) The public employees' retirement board shall, as soon as possible, request in writing a ruling
11 or determination from the commissioner of the internal revenue service as to whether the tier established
12 pursuant to [this act] affects the status of the retirement system as a "qualified plan" pursuant to section 401(a)
13 of the Internal Revenue Code. The board shall seek the ruling or determination first based on the vesting
14 schedule provided for in [section 5(1)]. If that schedule is not approved, then the board shall seek the ruling or
15 determination based on the vesting schedule provided for in [section 5(2)].

16 (2) The board shall certify to the governor and the secretary of state the date on which the tier
17 established pursuant to [sections 1 through 11] receives a favorable ruling or determination from the internal
18 revenue service. The board shall provide a copy of the certification to the code commissioner.

19
20 **NEW SECTION. Section 11. Legislative oversight committee.** (1) The state administration and
21 veterans' affairs interim committee shall oversee the implementation of the tier three provided for in [sections 1
22 through 11] and act as an oversight committee on matters of policy.

23 (2) The public employees' retirement board shall consult with and provide regular updates to the
24 committee and shall make recommendations regarding the design and implementation of the tier three.

25
26 **Section 12.** Section 19-2-303, MCA, is amended to read:

27 **"19-2-303. Definitions.** Unless the context requires otherwise, for each of the retirement systems
28 subject to this chapter, the following definitions apply:

1 (1) "Accumulated contributions" means the sum of all the regular and any additional contributions
2 made by a member in a defined benefit plan, together with the regular interest or interest credit on the
3 contributions.

4 (2) "Active member" means a member who is a paid employee of an employer, is making the required
5 contributions, and is properly reported to the board for the most current reporting period.

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

10 (4) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the
11 mortality table and interest rate assumptions adopted by the board.

12 (5) "Actuarial liabilities" means the excess of the present value of all benefits payable under a defined
13 benefit retirement plan over the present value of future normal costs in that retirement plan.

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

15 (7) "Additional contributions" means contributions made by a member of a defined benefit plan to
16 purchase various types of optional service credit as allowed by the applicable retirement plan.

17 (8) "Annuity" means:

18 (a) in the case of a defined benefit plan, except under tier three, equal and fixed payments for life that
19 are the actuarial equivalent of a lump-sum payment under a retirement plan and as such are not benefits paid
20 by a retirement plan and are not subject to periodic or one-time increases; or

21 (b) in the case of tier three, payments pursuant to [section 7]; or

22 ~~(b)(c)~~ in the case of the defined contribution plan, a payment of a fixed sum of money at regular
23 intervals.

24 (9) "Banked holiday time" means the hours reported for work performed on a holiday that the
25 employee may use for equivalent time off or that may be paid to the employee as specified by the employer's
26 policy.

27 (10) "Benefit" means:

28 (a) the service retirement benefit, early retirement benefit, or disability retirement or survivorship

1 benefit payment provided by a defined benefit retirement plan; or

2 (b) a payment or distribution under the defined contribution retirement plan, including a disability
3 payment under 19-3-2141, for the exclusive benefit of a plan member or the member's beneficiary or an annuity
4 purchased under 19-3-2124.

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

6 (12) "Contingent annuitant" means:

7 (a) under option 2 or 3 provided for in 19-3-1501, one natural person designated to receive a
8 continuing monthly benefit after the death of a retired member; or

9 (b) under option 4 provided for in 19-3-1501, a natural person, charitable organization, estate, or trust
10 that may receive a continuing monthly benefit after the death of a retired member.

11 (13) "Covered employment" means employment in a covered position.

12 (14) "Covered position" means a position in which the employee must be a member of the retirement
13 system except as otherwise provided by law.

14 (15) "Defined benefit retirement plan" or "defined benefit plan" means a plan within the retirement
15 systems provided for pursuant to 19-2-302 that is not the defined contribution retirement plan.

16 (16) "Defined contribution retirement plan" or "defined contribution plan" means the plan within the
17 public employees' retirement system established in 19-3-103 that is provided for in chapter 3, part 21, of this
18 title and that is not a defined benefit plan.

19 (17) "Department" means the department of administration.

20 (18) "Designated beneficiary" means the person, charitable organization, estate, or trust for the benefit
21 of a natural person designated by a member or payment recipient to receive any survivorship benefits, lump-
22 sum payments, or benefit from a retirement account upon the death of the member or payment recipient,
23 including annuities derived from the benefits or payments.

24 (19) "Direct rollover" means a payment by the retirement plan to the eligible retirement plan specified
25 by the distributee or a payment from an eligible retirement plan to the retirement plan specified by the
26 distributee.

27 (20) "Disability" or "disabled" means a total inability of the member to perform the member's duties by
28 reason of physical or mental incapacity. The disability must be incurred while the member is an active member

1 and must be one of permanent duration or of extended and uncertain duration, as determined by the board on
2 the basis of competent medical opinion.

3 (21) "Distributee" means:

4 (a) a member;

5 (b) a member's surviving spouse;

6 (c) a member's spouse or former spouse who is the alternate payee under a family law order as
7 defined in 19-2-907; or

8 (d) effective January 1, 2007, a member's nonspouse beneficiary who is a designated beneficiary as
9 defined by section 401(a)(9)(E) of the Internal Revenue Code, 26 U.S.C. 401(a)(9)(E).

10 (22) "Early retirement benefit" means the retirement benefit payable to a member following early
11 retirement and is the actuarial equivalent of the accrued portion of the member's service retirement benefit.

12 (23) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover
13 distribution:

14 (a) an individual retirement account described in section 408(a) of the Internal Revenue Code, 26
15 U.S.C. 408(a);

16 (b) an individual retirement annuity described in section 408(b) of the Internal Revenue Code, 26
17 U.S.C. 408(b);

18 (c) an annuity plan described in section 403(a) of the Internal Revenue Code, 26 U.S.C. 403(a);

19 (d) a qualified trust described in section 401(a) of the Internal Revenue Code, 26 U.S.C. 401(a);

20 (e) effective January 1, 2002, an annuity contract described in section 403(b) of the Internal Revenue
21 Code, 26 U.S.C. 403(b);

22 (f) effective January 1, 2002, a plan eligible under section 457(b) of the Internal Revenue Code, 26
23 U.S.C. 457(b), that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of
24 a state or a political subdivision of a state that agrees to separately account for amounts transferred into that
25 plan from a plan under this title; or

26 (g) effective January 1, 2008, a Roth IRA described in section 408A of the Internal Revenue Code, 26
27 U.S.C. 408A.

28 (24) "Eligible rollover distribution":

1 (a) means any distribution of all or any portion of the balance from a retirement plan to the credit of
2 the distributee, as provided in 19-2-1011;

3 (b) effective January 1, 2002, includes a distribution to a surviving spouse or to a spouse or former
4 spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Internal
5 Revenue Code, 26 U.S.C. 414(p).

6 (25) "Employee" means a person who is employed by an employer in any capacity and whose salary is
7 being paid by the employer or a person for whom an interlocal governmental entity is responsible for paying
8 retirement contributions pursuant to 7-11-105.

9 (26) "Employer" means a governmental agency participating in a retirement system enumerated in 19-
10 2-302 on behalf of its eligible employees. The term includes an interlocal governmental entity identified as
11 responsible for paying retirement contributions pursuant to 7-11-105.

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

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

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

16 (c) the element is highly specialized.

17 (28) "Excess earnings" means the difference, if any, between reported compensation and the limits
18 provided in 19-2-1005(2) used to calculate a member's highest average compensation or final average
19 compensation.

20 (29) "Fiscal year" means a plan year, which is any year commencing with July 1 and ending the
21 following June 30.

22 (30) "Inactive member" means a member who terminates service and does not retire or take a refund
23 of the member's accumulated contributions.

24 (31) "Internal Revenue Code" has the meaning provided in 15-30-2101.

25 (32) "Member" means either:

26 (a) a person with accumulated contributions and service credited with a defined benefit retirement
27 plan or receiving a retirement benefit on account of the person's previous service credited in a retirement
28 system; or

1 (b) a person with a retirement account in the defined contribution plan.

2 (33) "Membership service" means the periods of service that are used to determine eligibility for
3 retirement or other benefits.

4 (34) (a) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost
5 method required to fund accruing benefits for members of a defined benefit retirement plan during any year in
6 the future.

7 (b) Normal cost does not include any portion of the supplemental costs of a retirement plan.

8 (35) "Normal retirement age" means the age at which a member is eligible to immediately receive a
9 retirement benefit based on the member's age or both age and length of service, as specified under the
10 member's retirement system, without disability and without an actuarial or similar reduction in the benefit.

11 (36) "Pension" means benefit payments for life derived from contributions to a retirement plan made
12 from state- or employer-controlled funds.

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

15 (38) "Plan choice rate" means the amount of the employer contribution as a percentage of payroll
16 covered by the defined contribution plan members that is allocated to the public employees' retirement system's
17 defined benefit plan pursuant to 19-3-2117 to actuarially fund the unfunded liabilities and the normal cost rate
18 changes in a defined benefit plan resulting from member selection of the defined contribution plan.

19 (39) "Regular contributions" means contributions required from members under a retirement plan.

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

21 (41) "Retirement" or "retired" means the status of a member who has:

22 (a) terminated from service; and

23 (b) received and accepted a retirement benefit from a retirement plan.

24 (42) "Retirement account" means an individual account within the defined contribution retirement plan
25 for the deposit of employer and member contributions and other assets for the exclusive benefit of a member of
26 the defined contribution plan or the member's beneficiary.

27 (43) "Retirement benefit" means:

28 (a) in the case of a defined benefit plan, the periodic benefit payable as a result of service retirement,

1 early retirement, or disability retirement under a defined benefit plan of a retirement system or a benefit payable
2 under tier three. With respect to a defined benefit plan, excluding tier three, the term does not mean an annuity.

3 (b) in the case of the defined contribution plan, a benefit as defined in subsection (10)(b).

4 (44) "Retirement plan" or "plan" means either a defined benefit plan or a defined contribution plan
5 under one of the public employee retirement systems enumerated in 19-2-302.

6 (45) "Retirement system" or "system" means one of the public employee retirement systems
7 enumerated in 19-2-302.

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

9 (47) "Service credit" means the periods of time for which the required contributions have been made to
10 a retirement plan and that ~~are~~ may be used to calculate retirement benefits or survivorship benefits under a
11 defined benefit retirement plan.

12 (48) "Service retirement benefit" means the retirement benefit that the member may receive at normal
13 retirement age.

14 (49) "Statutory beneficiary" means the surviving spouse or dependent child or children of a member of
15 the highway patrol officers', municipal police officers', or firefighters' unified retirement system who are
16 statutorily designated to receive benefits upon the death of the member.

17 (50) "Supplemental cost" means an element of the total actuarial cost of a defined benefit retirement
18 plan arising from benefits payable for service performed prior to the inception of the retirement plan or prior to
19 the date of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure to fund or
20 otherwise recognize normal cost accruals or interest on supplemental costs. These costs are included in the
21 unfunded actuarial liabilities of the retirement plan.

22 (51) "Survivorship benefit" means payments for life to the statutory or designated beneficiary of a
23 deceased member who died while in service under a defined benefit retirement plan.

24 (52) "Termination of employment", "termination from employment", "terminated employment",
25 "terminated from employment", "terminate employment", or "terminates employment" means that:

26 (a) there has been a complete severance of a covered employment relationship by the positive act of
27 either the employee, the employer, or both; and

28 (b) the member is no longer receiving compensation for covered employment, other than any

1 outstanding lump-sum payment for compensatory leave, sick leave, or annual leave.

2 (53) "Termination of service", "termination from service", "terminated from service", "terminated
3 service", "terminating service", or "terminates service" means that:

4 (a) there has been a complete severance of a covered employment relationship by the positive act of
5 either the employee, the employer, or both for at least 30 days;

6 (b) no written or verbal agreement exists between employee and employer that the employee will
7 return to covered employment in the future;

8 (c) the member is no longer receiving compensation for covered employment; and

9 (d) the member has been paid all compensation for compensatory leave, sick leave, or annual leave
10 to which the member was entitled. For the purposes of this subsection (53), compensation does not mean
11 compensation as a result of a legal action, court order, or settlement to which the board was not a party.

12 (54) "Tier three" means the benefit provisions applicable to tier three members as described in 19-3-
13 108 to the public employees' retirement system defined benefit plan.

14 ~~(54)~~(55) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a defined benefit
15 retirement plan's actuarial liabilities at any given point in time over the value of its cash and investments on that
16 same date.

17 ~~(55)~~(56) "Vested account" means an individual account within a defined contribution plan that is for the
18 exclusive benefit of a member or the member's beneficiary, not including a tier three member. A vested account
19 includes all contributions and the income on all contributions in each of the following accounts:

20 (a) the member's contribution account;

21 (b) the vested portion of the employer's contribution account; and

22 (c) the member's account for other contributions.

23 ~~(56)~~(57) "Vested member" or "vested" means:

24 (a) with respect to a defined benefit plan, except as provided in subsection ~~(56)(b)~~, (57)(b), a member
25 or the status of a member who has at least 5 years of membership service;

26 (b) with respect to a member of the highway patrol officers' retirement system established in Title 19,
27 chapter 6, who was hired on or after July 1, 2013, a member or the status of a member who has at least 10
28 years of membership service; or

1 (c) with respect to the defined contribution plan, a member or the status of a member who meets the
2 minimum membership service requirement of 19-3-2116.

3 ~~(57)~~(58) "Written application" or "written election" means a written instrument, prescribed by the board
4 or required by law, properly signed and filed with the board, that contains all required information, including
5 documentation that the board considers necessary.

6 ~~(58)~~(59) "Written instrument" includes an electronic record containing an electronic signature, as
7 defined in 30-18-102."

8

9 **Section 13.** Section 19-2-710, MCA, is amended to read:

10 **"19-2-710. Nonapplication of part to defined contribution plan or tier three.** Except as otherwise
11 provided in 19-2-715 and chapter 3, part 21, of this title or [sections 1 through 11], none of the provisions of this
12 part apply under the defined contribution plan or tier three."

13

14 **Section 14.** Section 19-3-108, MCA, is amended to read:

15 **"19-3-108. Definitions.** Unless the context requires otherwise, as used in this chapter, the following
16 definitions apply:

17 (1) (a) "Compensation" means remuneration paid out of funds controlled by an employer in payment
18 for the member's services or for time during which the member is excused from work because of a holiday or
19 because the member has taken compensatory leave, sick leave, annual leave, banked holiday time, or a leave
20 of absence before any pretax deductions allowed by state or federal law are made.

21 (b) Compensation does not include:

22 (i) the contributions made pursuant to 19-3-403(4)(a) for members of a bargaining unit;

23 (ii) in-kind goods provided by the employer, such as uniforms, housing, transportation, or meals;

24 (iii) in-kind services, such as the retraining allowance paid pursuant to 2-18-622, or employment-
25 related services;

26 (iv) contributions to group insurance, such as that provided under 2-18-701 through 2-18-704;

27 (v) lump-sum payments for compensatory leave, sick leave, banked holiday time, or annual leave
28 paid without termination of employment; or

1 (vi) bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and not
2 considered part of base pay.

3 (2) "Contracting employer" means any political subdivision or governmental entity that has contracted
4 to come into the system under this chapter.

5 (3) "Defined benefit plan" means the plan within the public employees' retirement system established
6 in 19-3-103 that is not the defined contribution plan.

7 (4) "Employer" means the state of Montana, its university system or any of the colleges, schools,
8 components, or units of the university system for the purposes of this chapter, or any contracting employer.

9 (5) "Employer contributions" means payments to a pension trust fund pursuant to 19-3-316 from
10 appropriations of the state of Montana and from contracting employers.

11 (6) (a) "Highest average compensation" means:

12 (i) for a tier one member hired prior to July 1, 2011, the highest average monthly compensation during
13 any 36 consecutive months of membership service;

14 (ii) for a tier two member hired on or after July 1, 2011, the highest average monthly compensation
15 during any 60 consecutive months of membership service; or

16 (iii) in the event a tier one or tier two member has not served the minimum specified period of service,
17 the total compensation earned divided by the months of membership service.

18 (b) Lump-sum payments for compensatory leave, sick leave, banked holiday time, and annual leave
19 paid to the member upon termination of employment may be used in the calculation of a retirement benefit only
20 to the extent that they are used to replace, on a month-for-month basis, the regular compensation for a month
21 or months included in the calculation of the highest average compensation. A lump-sum payment may not be
22 added to a single month's compensation.

23 (c) Excess earnings limits must be applied to the calculation of the highest average compensation
24 pursuant to 19-2-1005(2).

25 (7) "System" or "retirement system" means the public employees' retirement system established in
26 19-3-103.

27 (8) (a) "Tier one member" means a person who became a member before July 1, 2011, and has not
28 withdrawn the person's contributions.

1 **(b)** "Tier two member" means a person who became a member on or after July 1, 2011, and before
2 [the effective date of this section], and has not withdrawn the person's contributions.

3 **(c)** "Tier three member" means a person who became a member on or after [the effective date of this
4 act] or who, after withdrawing the member's account balance, became a member again after [the effective date
5 of this act]."

6

7 **Section 15.** Section 19-3-315, MCA, is amended to read:

8 **"19-3-315. Member's contribution to be deducted.** (1) (a) Except as provided in subsection (2),
9 each tier one, tier two, or tier three member's contribution is 7.9% of the member's compensation.

10 (b) The board shall annually review the required contributions and recommend future adjustments to
11 the legislature as needed to maintain the amortization schedule set by the board for the payment of the
12 system's unfunded liability.

13 (2) Each member's contribution must be reduced to 6.9% on January 1 following the system's annual
14 actuarial valuation if the valuation determines that reducing the employee contribution pursuant to this
15 subsection and reducing the employer contribution pursuant to 19-3-316(4) would not cause the system's
16 amortization period to exceed 25 years.

17 (3) Payment of salaries or wages less the contribution is full and complete discharge and acquittance
18 of all claims and demands for the service rendered by members during the period covered by the payment,
19 except their claims to the benefits to which they may be entitled under the provisions of this chapter.

20 (4) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code, 26 U.S.C.
21 414(h)(2), shall pick up and pay the contributions that would be payable by the member under subsection (1) or
22 (2) for service rendered after June 30, 1985.

23 (5) (a) The member's contributions picked up by the employer must be designated for all purposes of
24 the retirement system as the member's contributions, except for the determination of a tax upon a distribution
25 from the retirement system.

26 (b) In the case of a member of the defined benefit plan, these contributions must become part of the
27 member's accumulated contributions but must be accounted for separately from those previously accumulated.

28 (c) In the case of a member of the defined contribution plan, these contributions must be allocated as

1 provided in 19-3-2117.

2 (6) The member's contributions picked up by the employer must be payable from the same source as
3 is used to pay compensation to the member and must be included in the member's wages, as defined in 19-1-
4 102, and compensation. The employer shall deduct from the member's compensation an amount equal to the
5 amount of the member's contributions picked up by the employer and remit the total of the contributions to the
6 board."

7

8 **Section 16.** Section 19-3-401, MCA, is amended to read:

9 **"19-3-401. Membership -- inactive vested members -- inactive nonvested members.** (1) Except
10 as otherwise provided in this chapter, all employees become members of the defined benefit plan on the first
11 day of service. Each employer shall file with the board information affecting the employer's employees' status
12 as members as the board may require. An employee may become a member of the defined contribution plan
13 only as provided in Title 19, chapter 3, part 21.

14 (2) (a) An inactive member of the defined benefit plan with at least 5 years of membership service is
15 an inactive vested member. A tier one or tier two member ~~and~~ retains the right to purchase service credit and to
16 receive a service retirement benefit subject to the provisions of this chapter.

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

20 (3) (a) An inactive member of the defined benefit plan with less than 5 years of membership service
21 is an inactive nonvested member and is not eligible for any benefits from the retirement plan.

22 (b) An inactive nonvested member of the defined benefit plan is eligible only for a refund of the
23 member's accumulated contributions.

24 (4) Except as otherwise provided in this chapter, a member of either the defined benefit plan or the
25 defined contribution plan is an active member of the system and is not eligible for a refund of contributions or
26 for benefit payments if the member either:

27 (a) returns to service within 30 days of termination of employment; or

28 (b) terminates one employment but remains employed in another position covered by the system.

1 (5) Time during which an employee of a school district, the Montana school for the deaf and blind, or
2 a public institution of higher education is absent from service during official vacation is counted as membership
3 service in determining eligibility for retirement benefits."
4

5 **Section 17.** Section 19-3-522, MCA, is amended to read:

6 **"19-3-522. Nonapplication of part to defined contribution plan or tier three.** Except as otherwise
7 provided in chapter 3, part 21, of this title or [sections 1 through 11], none of the provisions of this part apply
8 under the defined contribution plan or to tier three."
9

10 **Section 18.** Section 19-3-901, MCA, is amended to read:

11 **"19-3-901. Eligibility for service retirement.** (1) A tier one member ~~hired prior to July 1, 2011,~~ who
12 has:

13 (a) attained age 60 and has 5 years of membership service is eligible for service retirement;

14 (b) attained at least age 65 before or while employed in a position covered by the public employees'
15 retirement system is eligible for service retirement regardless of the member's years of membership service; or

16 (c) 30 years or more of membership service is eligible for service retirement regardless of the
17 member's age.

18 (2) A tier two member ~~hired on or after July 1, 2011,~~ who has:

19 (a) attained age 65 and has 5 years of membership service is eligible for service retirement; or

20 (b) attained age 70 before or while employed in a position covered by the public employees'
21 retirement system is eligible for service retirement regardless of the member's years of membership service.

22 (3) For purposes of compliance with section 411 of the Internal Revenue Code, 26 U.S.C. 411:

23 (a) in each of the circumstances described in subsections (1)(a), (1)(b), and (2), the member is
24 treated as having attained normal retirement age; and

25 (b) in each of the circumstances described in subsections (1) and (2), the member has a
26 nonforfeitable right to the service retirement benefit accrued and payable under the provisions of this chapter,
27 subject to the member's right to a refund of the member's accumulated contributions under Title 19, chapter 2,
28 part 6."

1

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

3 **"19-3-902. Eligibility for early retirement.** (1) A tier one member ~~hired prior to July 1, 2011~~, who:

4 (a) is not eligible for service retirement but has attained age 50 and has 5 years of membership
5 service is eligible for early retirement; or

6 (b) has completed 25 years or more of membership service is eligible for early retirement.

7 (2) A tier two member ~~hired on or after July 1, 2011~~, who is not eligible for service retirement but has
8 attained age 55 and has 5 years of membership service is eligible for early retirement."

9

10 **Section 20.** Section 19-3-904, MCA, is amended to read:

11 **"19-3-904. Amount of service retirement benefit.** (1) The monthly amount of service retirement
12 benefit payable following retirement to a tier one member ~~hired before July 1, 2011~~, with:

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

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

19 (2) The monthly amount of service retirement benefit payable following retirement to a tier two
20 member ~~hired on or after July 1, 2011~~, with:

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

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

27 (c) 30 or more years of membership service is the greater of 2% of the member's highest average
28 compensation multiplied by the number of years of the member's total service credit or the benefit calculated

1 under subsection (3).

2 (3) A tier one or tier two member is entitled to receive the greater of:

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

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

5 (i) double the member's regular contributions and regular interest; and

6 (ii) any amounts paid by the member to purchase service credit and membership service as provided

7 by law."

8

9 **Section 21.** Section 19-3-906, MCA, is amended to read:

10 **"19-3-906. Early retirement benefit.** (1) (a) Until October 1, 2011, for a tier one member ~~hired prior~~
 11 ~~to July 1, 2011~~, the amount of the early retirement benefit payable following early retirement is the actuarial
 12 equivalent of the accrued portion of the service retirement benefit that would have been payable to the member
 13 commencing at age 60 or upon completion of 30 years of membership service pursuant to 19-3-904(1).

14 (b) The early retirement benefit must be determined as prescribed in 19-3-904(1), with the exception
 15 that the benefit must be reduced as follows:

16 (i) by 0.5% multiplied by the number of months up to a maximum of 60 months by which the
 17 retirement date precedes the date on which the member would have retired had the member attained age 60 or
 18 had the member completed 30 years of membership service; and

19 (ii) by 0.3% multiplied by the number of months in excess of the 60 months in subsection (1)(b)(i) but
 20 not to exceed 60 additional months by which the retirement date precedes the date on which the member would
 21 have retired had the member attained age 60 or had the member completed 30 years of membership service.

22 (2) Beginning October 1, 2011, for a tier one member ~~hired prior to July 1, 2011~~, the amount of
 23 retirement benefit payable following early retirement is the actuarial equivalent of the accrued portion of the
 24 service retirement benefit that would have been payable to the member commencing at age 60 or upon
 25 completion of 30 years of membership service pursuant to 19-3-904(1), with the exception that the benefit must
 26 be reduced using actuarially equivalent factors based on the most recent valuation of the system.

27 (3) For a tier two member ~~hired on or after July 1, 2011~~, the amount of the early retirement benefit
 28 payable following early retirement is the actuarial equivalent of the accrued portion of the service retirement

1 benefit that would have been payable to the member commencing at age 65 pursuant to 19-3-904(2), with the
2 exception that the benefit must be reduced using actuarially equivalent factors based on the most recent
3 valuation of the system.

4 (4) The actuarial reduction provided for in this section must be adjusted for any one-for-five service
5 purchased under 19-3-513."

6

7 **Section 22.** Section 19-3-909, MCA, is amended to read:

8 **"19-3-909. Nonapplication of part to defined contribution plan or tier three.** Except as otherwise
9 provided in chapter 3, part 21, of this title or [sections 1 through 11], none of the provisions of this part apply
10 under the defined contribution plan or tier three."

11

12 **Section 23.** Section 19-3-1002, MCA, is amended to read:

13 **"19-3-1002. Eligibility for disability retirement.** (1) Except as provided in subsections (2) and (3), a
14 member entering service prior to February 24, 1991, who is not eligible for service retirement or early retirement
15 but who has at least 5 years of membership service and has become disabled while an active member is
16 eligible for disability retirement, as provided in 19-3-1008.

17 (2) An active tier one member who ~~was hired prior to July 1, 2011, and~~ is 60 years of age or older or
18 ~~was hired on or after July 1, 2011, and~~ a tier two member who is 65 years of age or older and who has
19 completed 5 years of membership service and has had a duty-related accident forcing the member to terminate
20 employment but who has not received or is ineligible to receive workers' compensation benefits under Title 39,
21 chapter 71, for the duty-related accident may conditionally waive the member's eligibility for a service retirement
22 in order to be eligible for disability retirement. The waiver is effective only upon approval by the board of the
23 member's written application for disability retirement. The board shall determine whether a member has
24 become disabled. The board may request any information on file with the state compensation insurance fund
25 concerning any duty-related accident. If information is not available, the board may request and the state fund
26 shall then provide an investigative report on the disabling accident.

27 (3) (a) A member in service on February 24, 1991, has a one-time election to be covered for disability
28 purposes under the provisions of 19-3-1008(2). This election is irrevocable and must be made in writing by the

1 member no later than December 31, 1991. Coverage under the provisions of 19-3-1008(2) commences on the
 2 date the completed written election is received by the board or its designated representative. To be eligible for
 3 disability benefits under the provisions of this part, a member must have completed 5 years of membership
 4 service and must have become disabled while an active member.

5 (b) An individual who became a member after February 24, 1991, and ~~before July 1, 2011,~~ is a tier
 6 one member who has completed 5 years of membership service and has become disabled while an active
 7 member is covered for disability purposes under the provisions of 19-3-1008(2) or (3).

8 (4) A tier two member ~~hired on or after July 1, 2011,~~ who has completed 5 years of membership
 9 service and has become disabled while an active member is covered for disability purposes under the
 10 provisions of 19-3-1008(4)."
 11

12 **Section 24.** Section 19-3-1016, MCA, is amended to read:

13 "**19-3-1016. Nonapplication of part to defined contribution plan or tier three.** Except as otherwise
 14 provided in chapter 3, part 21, of this title or [sections 1 through 11], none of the provisions of this part apply
 15 under the defined contribution plan or tier three."
 16

17 **Section 25.** Section 19-3-1106, MCA, is amended to read:

18 "**19-3-1106. Limited reemployment -- reduction of service retirement benefit upon exceeding**
 19 **limits -- reporting obligations -- liability -- exceptions.** (1) A retired tier one member under 65 years of age
 20 ~~who was hired prior to July 1, 2011,~~ who has been terminated from employment for at least 90 days, and who is
 21 receiving a service retirement benefit or early retirement benefit may return to employment covered by the
 22 retirement system for a period not to exceed 960 hours in any calendar year without returning to active service
 23 and without any effect to the retiree's retirement benefit. The retirement benefit for any retiree exceeding this
 24 960-hour limitation in any calendar year after retirement must be temporarily reduced \$1 for each \$1 earned
 25 after working 960 hours in that calendar year.

26 (2) A retired member who is 65 years of age or older but less than 70 1/2 years of age, who has been
 27 terminated from employment for at least 90 days, and who returns to employment covered by the retirement
 28 system is either subject to the 960-hour limitation of subsection (1) or may earn in any calendar year an amount

1 that, when added to the retiree's current annual retirement benefit, will not exceed the member's annualized
2 highest average compensation, adjusted for inflation as of January 1 of the current calendar year, whichever
3 limitation provides the higher limit on earned compensation to the retiree. Upon reaching the applicable
4 limitation, the retiree's benefits must be temporarily reduced \$1 for each \$1 of compensation earned in service
5 beyond the applicable limitation during that calendar year.

6 (3) (a) The employer of a retiree returning to employment covered by the retirement system shall
7 certify to the board the number of hours worked by the retiree and the gross compensation paid to the retiree in
8 that employment during any pay period after retirement. The certification of hours and compensation may be
9 submitted electronically pursuant to rules adopted by the board.

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

14 (4) Except as provided in 19-3-412 and 19-3-413, a retiree returning to employment covered by the
15 retirement system may elect to return to active service at any time during this period of employment covered by
16 the retirement system.

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

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

21 (b) an elected official in a covered position who, as a retired member, declines optional membership
22 as provided in 19-3-413.

23 (6) If a retired member is employed by an employer in a position that is reportable to the retirement
24 system and the retired member is concurrently working for the employer in another position that is not
25 reportable to the system, the position that is not reportable is considered to be part of the position that is
26 reportable to the retirement system. All earnings of the retired member that are generated by these positions
27 are reportable to the retirement system.

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

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

3 (ii) services performed by a retiree as an independent contractor for an employer participating in the
4 system.

5 (b) For purposes of this section, compensation for a retiree covered by subsection (7)(a) is limited to
6 compensation for the work performed by the retiree and does not include any additional payment for overhead
7 costs or costs not directly related to the work performed."
8

9 **Section 26.** Section 19-3-1112, MCA, is amended to read:

10 **"19-3-1112. Nonapplication of part to defined contribution plan or tier three.** Except as otherwise
11 provided in chapter 3, part 21, of this title or [sections 1 through 11], none of the provisions of this part apply
12 under the defined contribution plan or tier three."
13

14 **Section 27.** Section 19-3-1202, MCA, is amended to read:

15 **"19-3-1202. Amount of death payment -- nonapplication of section.** (1) The amount of death
16 payment to be made to the designated beneficiary of a deceased member is the sum of subsections (1)(a),
17 (1)(b), and (1)(c) as follows:

18 (a) the member's accumulated contributions;

19 (b) subject to subsection (2), an amount equal to one-twelfth of the compensation received by the
20 member during the last 12 months of compensation multiplied by the smaller of six or the number of years of
21 the member's service credit; and

22 (c) the accumulated regular interest on the amounts in subsections (1)(a) and (1)(b) to the first day of
23 the month in which the payment is made.

24 (2) (a) A beneficiary of a member who was inactive for less than 6 months at the time of death is
25 eligible to receive the payment described in subsection (1)(b).

26 (b) A beneficiary of a member who was inactive for 6 or more months at the time of death is not
27 eligible to receive the payment described in subsection (1)(b).

28 (3) This section does not apply under tier three."

1

2 **Section 28.** Section 19-3-1203, MCA, is amended to read:

3 **"19-3-1203. Election of optional death annuity.** The designated beneficiary of a deceased member
4 may elect, by filing a written application with the board, to have the death payment provided for in 19-3-1202 or
5 [section 9] paid in an actuarially equivalent form, subject to rules that the board may adopt. The annuity
6 payments are not subject to increases that may be granted to other monthly retirement benefits."

7

8 **Section 29.** Section 19-3-1204, MCA, is amended to read:

9 **"19-3-1204. Survivorship benefit elected by beneficiary -- nonapplication of section.** (1) A
10 designated beneficiary eligible to receive a death payment may instead elect a survivorship benefit by filing a
11 written application with the board, if all of the following conditions are met:

12 (a) the deceased member on behalf of whom the death benefit is payable had completed 5 years of
13 membership service;

14 (b) the designated beneficiary is a natural person; and

15 (c) the designated beneficiary elects the survivorship benefit within 90 days of receipt of notice from
16 the board that the designated beneficiary is eligible to receive the death payment.

17 (2) A designated beneficiary of a vested member may, by filing a written application with the board,
18 elect to receive a survivorship benefit in lieu of a death payment.

19 (3) (a) If the designated beneficiary is a minor, the custodian designated in 19-2-803 may, on the
20 minor's behalf, file a written application with the board.

21 (b) If an application is not filed on the minor's behalf and no payment has been made, the designated
22 beneficiary may file a written application upon reaching the age of majority. For the purposes of this subsection
23 (3)(b), the survivorship benefit provided for in 19-3-1205 must be calculated as if the member had died on the
24 last day of the month before the month in which the application was filed.

25 (4) This section does not apply under tier three."

26

27 **Section 30.** Section 19-3-1205, MCA, is amended to read:

28 **"19-3-1205. Amount of survivorship benefit -- nonapplication of section.** (1) For a tier one

1 member ~~hired prior to July 1, 2014~~, the survivorship benefit payable to the member's designated beneficiary is
 2 the actuarial equivalent of:

3 (a) the accrued portion of the early retirement benefit pursuant to 19-3-906(1) that would have been
 4 payable to the member commencing at age 50 if the member had not attained age 50 or earned 25 years of
 5 membership service at the time of death;

6 (b) if the deceased member had attained age 50 or earned 25 years of membership service at the
 7 time of death, the early retirement benefit that would have been payable to the member if the member had
 8 retired immediately prior to death; or

9 (c) if the deceased member had attained age 60 or earned 30 years of membership service at the
 10 time of death, the service retirement benefit that would have been payable to the member if the member had
 11 retired immediately prior to death.

12 (2) For a tier two member ~~hired on or after July 1, 2014~~, the survivorship benefit payable to the
 13 member's designated beneficiary is the actuarial equivalent of:

14 (a) the accrued portion of the early retirement benefit pursuant to 19-3-906(3) that would have been
 15 payable to the member commencing at age 55 if the member had not attained age 55 at the time of death;

16 (b) if the deceased member had attained age 55 at the time of death, the early retirement benefit that
 17 would have been payable to the member if the member had retired immediately prior to death; or

18 (c) if the deceased member had attained age 65 at the time of death, the service retirement benefit
 19 that would have been payable to the member if the member had retired immediately prior to death.

20 (3) This section does not apply to tier three members."

21

22 **Section 31.** Section 19-3-1607, MCA, is amended to read:

23 "**19-3-1607. Nonapplication of part to defined contribution plan or tier three.** Unless otherwise
 24 explicitly provided in this part, none of the provisions of this part apply under the defined contribution plan or tier
 25 three."

26

27 **Section 32.** Section 19-3-2141, MCA, is amended to read:

28 "**19-3-2141. Long-term disability plan -- benefit amount -- eligibility -- administration and**

1 **rulemaking.** (1) For tier one members ~~hired prior to July 1, 2014~~:

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

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

9 (2) For tier two members ~~hired on or after July 1, 2014~~, the monthly disability benefit payable to a
10 disabled member eligible under the provisions of this section who has:

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

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

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

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

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

22 (b) for tier one members ~~hired prior to July 1, 2014~~:

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

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

27 (c) for tier two members ~~hired on or after July 1, 2014~~:

28 (i) if the member's disability occurred when the member was less than 65 years of age, the benefit

1 may be paid only until the member reaches 70 years of age; and

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

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

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

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

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

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

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

18

19 **NEW SECTION. Section 33. Codification instruction.** [Sections 1 through 11] are intended to be
20 codified as an integral part of Title 19, chapter 3, and the provisions of Title 19, chapter 3, apply to [sections 1
21 through 11].

22

23 **NEW SECTION. Section 34. Saving clause.** [This act] does not affect rights and duties that
24 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

25

26 **NEW SECTION. Section 35. Severability.** If a part of [this act] is invalid, all valid parts that are
27 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
28 the part remains in effect in all valid applications that are severable from the invalid applications.

