

## 1 HOUSE BILL NO. 122

2 INTRODUCED BY S. MALEK

3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING BENEFIT AND FUNDING PROVISIONS OF THE PUBLIC  
 6 EMPLOYEES' RETIREMENT SYSTEM; INCREASING THE NORMAL RETIREMENT AGE FOR NEW HIRES;  
 7 INCREASING THE AGE OF ELIGIBILITY FOR EARLY RETIREMENT FOR NEW HIRES; ELIMINATING EARLY  
 8 RETIREMENT ELIGIBILITY BASED ON MEMBERSHIP SERVICE FOR NEW HIRES; CHANGING THE  
 9 CALCULATION OF HIGHEST AVERAGE COMPENSATION FOR NEW HIRES; REDUCING THE MULTIPLIER  
 10 USED TO CALCULATE BENEFIT PAYMENTS FOR NEW HIRES; INCREASING THE EMPLOYEE  
 11 CONTRIBUTIONS DUE ON BEHALF OF NEW HIRES; ~~INCREASING THE EMPLOYER CONTRIBUTIONS FOR~~  
 12 ~~ALL COVERED PAYROLL~~; AMENDING SECTIONS 19-3-108, 19-3-315, ~~19-3-316, 19-3-319~~, 19-3-513,  
 13 19-3-901, 19-3-902, 19-3-904, 19-3-906, 19-3-1002, 19-3-1008, 19-3-1106, 19-3-1205, 19-3-2117, 19-3-2141,  
 14 AND 19-21-214, MCA; AND PROVIDING AN EFFECTIVE DATE."

15

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

17

18 **Section 1.** Section 19-3-108, MCA, is amended to read:

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

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

23 ~~(1)~~(2) (a) "Compensation" means remuneration paid out of funds controlled by an employer in payment  
 24 for the member's services, or for time during which the member is excused from work because of a holiday or  
 25 because the member has taken compensatory leave, sick leave, annual leave, banked holiday time, or a leave  
 26 of absence, before any pretax deductions allowed by state or federal law are made.

27 (b) Compensation does not include:

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

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

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

1 services;

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

3 (v) lump-sum payments for compensatory leave, sick leave, banked holiday time, or annual leave paid  
4 without termination of employment.

5 ~~(2)~~(3) "Contracting employer" means any political subdivision or governmental entity that has contracted  
6 to come into the system under this chapter.

7 ~~(3)~~(4) "Defined benefit plan" means the plan within the public employees' retirement system established  
8 in 19-3-103 that is not the defined contribution plan.

9 ~~(4)~~(5) "Employer" means the state of Montana, its university system or any of the colleges, schools,  
10 components, or units of the university system for the purposes of this chapter, or any contracting employer.

11 ~~(5)~~(6) "Employer contributions" means payments to a pension trust fund pursuant to 19-3-316 from  
12 appropriations of the state of Montana and from contracting employers.

13 ~~(6)~~(7) (a) "Highest average compensation" means ~~a member's~~:

14 (i) for a member hired prior to [the effective date of this act], the highest average monthly compensation  
15 during any 36 consecutive months of membership service, except as otherwise provided in subsection (6)(b) or  
16 (6)(c);

17 ~~—— (b) For a member who has attained 65 years of age but has not served at least 36 months, highest~~  
18 ~~average compensation means total compensation earned divided by the number of months the member has~~  
19 ~~served.~~

20 ~~—— (c) For a vested member who does not have 36 consecutive months of membership service, highest~~  
21 ~~average compensation means the highest total compensation earned during any 36 consecutive calendar months~~  
22 ~~divided by 36.~~

23 (ii) for a member hired on or after [the effective date of this act], the highest average monthly  
24 compensation during any 60 consecutive months of membership service; or

25 (iii) in the event a member has not served the minimum specified period of service, the total  
26 compensation earned divided by the months of membership service.

27 ~~(d)~~(b) Lump-sum payments for severance pay, including payment for compensatory leave, sick leave,  
28 banked holiday time, and annual leave, paid to the member upon termination of employment may be used in the  
29 calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis,  
30 the regular compensation for a month or months included in the calculation of the highest average compensation.

1 A lump-sum payment may not be added to a single month's compensation.

2 ~~(7)~~(8) "System" or "retirement system" means the public employees' retirement system established in  
3 19-3-103."

4

5 **Section 2.** Section 19-3-315, MCA, is amended to read:

6 **"19-3-315. Member's contribution to be deducted.** (1) (a) Each member's contribution is:

7 (i) for a member hired prior to [the effective date of this act], 6.9% of the member's compensation; AND

8 (ii) for a member hired on or after [the effective date of this act]:

9 ~~— (A) starting July 1, 2011, and ending June 30, 2012, 7.9% of the member's compensation; and~~

10 ~~— (B) starting July 1, 2012, 8.9% of the member's compensation.~~

11 (b) For members hired on or after [the effective date of this act], the board shall periodically review the  
12 required contributions and recommend future adjustments to the legislature as needed to maintain the  
13 amortization schedule set by the board for the payment of the system's unfunded liability.

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

17 (3) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code, 26 U.S.C.  
18 414(h)(2), shall pick up and pay the contributions that would be payable by the member under subsection (1) for  
19 service rendered after June 30, 1985.

20 (4) (a) The member's contributions picked up by the employer must be designated for all purposes of  
21 the retirement system as the member's contributions, except for the determination of a tax upon a distribution  
22 from the retirement system.

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

25 (c) In the case of a member of the defined contribution plan, these contributions must be allocated as  
26 provided in 19-3-2117.

27 (5) The member's contributions picked up by the employer must be payable from the same source as  
28 is used to pay compensation to the member and must be included in the member's wages, as defined in  
29 19-1-102, and compensation. The employer shall deduct from the member's compensation an amount equal to  
30 the amount of the member's contributions picked up by the employer and remit the total of the contributions to

1 the board."

2

3 ~~Section 3. Section 19-3-316, MCA, is amended to read:~~

4 ~~"19-3-316. Employer contribution rates. (1) Each Except as provided in subsection (3), each employer~~  
 5 ~~shall contribute to the system. Except as provided in subsection (2), the employer shall pay as employer~~  
 6 ~~contributions 6.9% the following employer contributions:~~

7 ~~(a) on July 1, 2011, through June 30, 2012, 8.17% of the compensation paid to all of the employer's~~  
 8 ~~employees plus any additional contribution under subsection (3), except for those employees properly excluded~~  
 9 ~~from membership; and~~

10 ~~(b) starting July 1, 2012, 9.17% of the compensation paid to all of the employer's employees, except for~~  
 11 ~~those employees properly excluded from membership.~~

12 ~~(2) Of A portion of the employer contributions made under this subsection (1) for both defined benefit plan~~  
 13 ~~and defined contribution plan members, a portion must be allocated for educational programs as provided in~~  
 14 ~~19-3-112. Employer contributions for members under the defined contribution plan must be allocated as provided~~  
 15 ~~in 19-3-2117.~~

16 ~~(2)(3) Local government and school district employer contributions must be the total employer~~  
 17 ~~contribution rate provided in subsection (1) minus the state contribution rates under 19-3-319.~~

18 ~~(3) Subject to subsection (4), each employer shall contribute to the system an additional employer~~  
 19 ~~contribution equal to 0.27% of the compensation paid to all of the employer's employees, except for those~~  
 20 ~~employees properly excluded from membership.~~

21 ~~(4) (a) The board shall periodically review the additional employer contribution contributions provided~~  
 22 ~~for under subsection (3) (1) and recommend adjustments to the legislature as needed to maintain the amortization~~  
 23 ~~schedule set by the board for payment of the system's unfunded liabilities.~~

24 ~~(b) The employer contribution required under subsection (3) terminates on July 1 following the board's~~  
 25 ~~receipt of the system's actuarial valuation if:~~

26 ~~(i) the actuarial valuation determines that the period required to amortize the system's unfunded~~  
 27 ~~liabilities, including adjustments made for any benefit enhancements enacted by the legislature after the valuation,~~  
 28 ~~is less than 25 years; and~~

29 ~~(ii) terminating the additional employer contribution would not cause the amortization period as of the~~  
 30 ~~most recent actuarial valuation to exceed 25 years."~~

1  
 2 ~~Section 4.~~ Section 19-3-319, MCA, is amended to read:  
 3 ~~"19-3-319. State contributions for local government and school district employers. (1) The state~~  
 4 ~~shall contribute monthly from the general fund to the pension trust fund a sum equal to 0.1% of the compensation~~  
 5 ~~paid to all employees of local government entities and 0.37% of the compensation paid to all employees of school~~  
 6 ~~districts on and after July 1, 1997, except those employees properly excluded from membership.~~  
 7 ~~(2) (a) Subject to subsection (2)(b), in addition to the contribution required under subsection (1), the state~~  
 8 ~~shall contribute monthly from the general fund to the pension trust fund a sum equal to the following percentage~~  
 9 ~~of the compensation paid to all employees of school districts on and after July 1, 2007, except for those~~  
 10 ~~employees properly excluded from membership:~~  
 11 ~~(i) beginning July 1, 2007, 0.135%; and~~  
 12 ~~(ii) beginning July 1, 2009, 0.27%.~~  
 13 ~~(b) The additional contribution under subsection (2)(a) terminates when the additional contribution under~~  
 14 ~~19-3-316(3) terminates.~~  
 15 ~~(3)(2) The board shall certify amounts due under this section on a monthly basis, and the state treasurer~~  
 16 ~~shall transfer those amounts to the pension trust fund within 1 week. The payments in this section are statutorily~~  
 17 ~~appropriated as provided in 17-7-502."~~

18  
 19 **Section 3.** Section 19-3-513, MCA, is amended to read:  
 20 **"19-3-513. Application to purchase additional service.** (1) Subject to 19-3-514, a member with at least  
 21 5 years of membership service may, at any time before retirement, file a written application with the board to  
 22 purchase 1 year of additional service credit for each 5 years of membership service.  
 23 (2) To purchase this service credit under this section, a member shall pay the actuarial cost of the  
 24 service credit, based on the system's most recent actuarial valuation.  
 25 (3) Service credit purchased under this section is not membership service and may not be used to qualify  
 26 a member for service retirement or to bring a member to 25 years of membership service for the purposes of  
 27 19-3-902 or 19-3-904.  
 28 (4) ~~Once a member has at least 25 years of membership service, purchases~~ Purchases of one-for-five  
 29 service will be used to adjust the early retirement reduction required in 19-3-906, if applicable."

30

1           **Section 4.** Section 19-3-901, MCA, is amended to read:

2           **"19-3-901. Eligibility for service retirement.** (1) A member hired prior to [the effective date of this act]  
3 who has:

4           (a) attained the age of 60 and has 5 years of membership service is eligible for service retirement.~~A~~  
5 ~~member who has:~~

6           (b) attained age 65 before or while employed in a position covered by a the public employees' retirement  
7 system is eligible for service retirement regardless of the member's years of membership service.~~A member who~~  
8 ~~has; or~~

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

11           (2) A member hired on or after [the effective date of this act] who has:

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

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

15           ~~(2)~~(3) In each of the circumstances described in ~~subsection~~ subsections (1) and (2), the member has  
16 attained normal retirement age."

17

18           **Section 5.** Section 19-3-902, MCA, is amended to read:

19           **"19-3-902. Eligibility for early retirement.** (1) A member hired prior to [the effective date of this act]  
20 who:

21           (a) is not eligible for service retirement but has attained age 50 and has 5 years of membership service  
22 is eligible for early retirement.~~A member who; or~~

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

24           (2) A member hired on or after [the effective date of this act] who is not eligible for service retirement but  
25 has attained age 55 and has 5 years of membership service is eligible for early retirement."

26

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

28           **"19-3-904. Amount of service retirement benefit.** (1) ~~Except as provided in subsection (2), the~~ The  
29 monthly amount of service retirement benefit payable following retirement to a member following retirement hired  
30 before [the effective date of this act] with:

- 1           (a) less than 25 years of membership service is the greater of subsection (1)(a) or (1)(b) as follows:  
 2           ~~—— (a) one fifty-sixth of the member's highest average compensation multiplied by the number of years of~~  
 3           ~~the member's total service credit or the benefit calculated under subsection (3); or~~  
 4           ~~—— (b) a monthly benefit that is the sum of:~~  
 5           ~~—— (i) the actuarial equivalent of double the member's regular contributions and regular interest; plus~~  
 6           ~~—— (ii) the actuarial equivalent of any additional contributions and regular interest.~~  
 7           ~~—— (2) For a member with at least 25 years of membership service, the monthly amount of service retirement~~  
 8           ~~benefit must be equal to~~  
 9           (b) 25 or more years of membership service is the greater of ~~one-fiftieth~~ 2% of the member's highest  
 10           average compensation multiplied by the number of years of the member's total service credit ~~instead of the~~  
 11           amount calculated under subsection (1)(a) or the benefit calculated under subsection (3).  
 12           (2) The monthly amount of service retirement benefit payable following retirement to a member hired on  
 13           or after [the effective date of this act] with:  
 14           (a) less than 10 years of membership service is the greater of 1.5% of the member's highest average  
 15           compensation multiplied by the number of years of the member's total service credit or the benefit calculated  
 16           under subsection (3);  
 17           (b) 10 or more years but less than 30 years of membership service is the greater of one fifty-sixth of the  
 18           member's highest average compensation multiplied by the number of years of the member's total service credit  
 19           or the benefit calculated under subsection (3); or  
 20           (c) 30 or more years of membership service is the greater of 2% of the member's highest average  
 21           compensation multiplied by the number of years of the member's total service credit or the benefit calculated  
 22           under subsection (3).  
 23           (3) Instead of the benefit provided under subsection (1) or (2), a member may receive a monthly benefit  
 24           that is the actuarial equivalent of double the member's accumulated contributions if that benefit is greater than  
 25           the benefit the member would have received under subsection (1) or (2)."

26  
 27           **Section 7.** Section 19-3-906, MCA, is amended to read:  
 28           **"19-3-906. Early retirement benefit.** (1) (a) The For UNTIL OCTOBER 1, 2011, FOR a member hired prior  
 29           to [the effective date of this act], the amount of THE EARLY retirement benefit payable to a member following early  
 30           retirement is the actuarial equivalent of the accrued portion of the service retirement benefit that would have been

1 payable to the member commencing at age 60 or upon completion of 30 years of membership service pursuant  
2 to 19-3-904(1).

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

5 ~~(a)(i)~~ by ~~1/2 of 1%~~ 0.5% multiplied by the number of months up to a maximum of 60 months by which  
6 the retirement date precedes the date on which the member would have retired had the member attained age  
7 ~~60 years of age~~ or had the member completed 30 years of membership service; and

8 ~~(b)(ii)~~ by ~~3/40 of 1%~~ 0.3% multiplied by the number of months in excess of the 60 months in subsection  
9 ~~(2)(a)~~ (1)(b)(i) but not to exceed 60 additional months that by which the retirement date precedes the date on  
10 which the member would have retired had the member attained age ~~60 years of age~~ or had the member  
11 completed 30 years of membership service.

12 ~~(3)(c)~~ The actuarial reduction provided for in this section ~~subsection (1)~~ must be adjusted for any  
13 ~~one-for-five service purchased under 19-3-513 once the member has at least 25 years of membership service.~~

14 (2) BEGINNING OCTOBER 1, 2011, FOR A MEMBER HIRED PRIOR TO [THE EFFECTIVE DATE OF THIS ACT], THE  
15 AMOUNT OF RETIREMENT BENEFIT PAYABLE FOLLOWING EARLY RETIREMENT IS THE ACTUARIAL EQUIVALENT OF THE  
16 ACCRUED PORTION OF THE SERVICE RETIREMENT BENEFIT THAT WOULD HAVE BEEN PAYABLE TO THE MEMBER  
17 COMMENCING AT AGE 60 OR UPON COMPLETION OF 30 YEARS OF MEMBERSHIP SERVICE PURSUANT TO 19-3-904(1), WITH  
18 THE EXCEPTION THAT THE BENEFIT MUST BE REDUCED USING ACTUARIALY EQUIVALENT FACTORS BASED ON THE MOST  
19 RECENT VALUATION OF THE SYSTEM.

20 ~~(2) (a)(3)~~ For a member hired on or after [the effective date of this act], the amount of THE EARLY  
21 retirement benefit payable following early retirement is the actuarial equivalent of the accrued portion of the  
22 service retirement benefit that would have been payable to the member commencing at age 65 pursuant to  
23 19-3-904(2);.

24 ~~(b)~~ The early retirement benefit must be determined as prescribed in 19-3-904(2), with the exception that  
25 the benefit must be reduced as follows:

26 ~~(i)~~ by 0.5% multiplied by the number of months up to a maximum of 60 months by which the retirement  
27 date precedes the date on which the member would have retired had the member attained age 65; and

28 ~~(ii)~~ by 0.3% multiplied by the number of months in excess of the 60 months in subsection (2)(b)(i) but not  
29 to exceed 60 additional months by which the retirement date precedes the date on which the member would have  
30 retired had the member attained age 65 USING ACTUARIALY EQUIVALENT FACTORS BASED ON THE MOST RECENT

1 VALUATION OF THE SYSTEM.

2 (4) THE ACTUARIAL REDUCTION PROVIDED FOR IN THIS SECTION MUST BE ADJUSTED FOR ANY ONE-FOR-FIVE  
 3 SERVICE PURCHASED UNDER 19-3-513."

4

5 **Section 8.** Section 19-3-1002, MCA, is amended to read:

6 **"19-3-1002. Eligibility for disability retirement.** (1) Except as provided in subsections (2) and (3), a  
 7 member entering service prior to February 24, 1991, who is not eligible for service retirement or early retirement  
 8 but who has at least 5 years of membership service and has become disabled while an active member is eligible  
 9 for disability retirement, as provided in 19-3-1008.

10 (2) An active member who was hired prior to [the effective date of this act] and is 60 years of age or older  
 11 and or was hired on or after [the effective date of this act] and is 65 years of age or older and who has completed  
 12 5 years of membership service and has had a duty-related accident forcing the member to terminate employment  
 13 but who has not received or is ineligible to receive workers' compensation benefits under Title 39, chapter 71,  
 14 for the duty-related accident may conditionally waive the member's eligibility for a service retirement in order to  
 15 be eligible for disability retirement. The waiver is effective only upon approval by the board of the member's  
 16 written application for disability retirement. The board shall determine whether a member has become disabled.  
 17 The board may request any information on file with the state compensation insurance fund concerning any  
 18 duty-related accident. If information is not available, the board may request and the state fund shall then provide  
 19 an investigative report on the disabling accident.

20 (3) (a) A member in service on February 24, 1991, has a one-time election to be covered for disability  
 21 purposes under the provisions of 19-3-1008(2). This election is irrevocable and must be made in writing by the  
 22 member no later than December 31, 1991. Coverage under the provisions of 19-3-1008(2) commences on the  
 23 date the completed written election is received by the board or its designated representative. To be eligible for  
 24 disability benefits under the provisions of this part, a member must have completed 5 years of membership  
 25 service and must have become disabled while an active member.

26 (b) An individual becoming who became a member after February 24, 1991, and before [the effective  
 27 date of this act] who has completed 5 years of membership service and has become disabled while an active  
 28 member is covered for disability purposes under the provisions of 19-3-1008(2) or (3).

29 (4) A member hired on or after [the effective date of this act] who has completed 5 years of membership  
 30 service and has become disabled while an active member is covered for disability purposes under the provisions

1 of 19-3-1008(4)."

2

3 **Section 9.** Section 19-3-1008, MCA, is amended to read:

4 **"19-3-1008. Benefit for disability.** (1) The monthly amount of the disability retirement benefit payable  
5 to a member under the provisions of 19-3-1002(1) is the greater of subsection (1)(a) or (1)(b) as follows:

6 (a) 90% of one fifty-sixth of the member's highest average compensation multiplied by the member's  
7 years of service credit, including any additional service credit purchased under 19-3-513; or

8 (b) a retirement benefit equal to 25% of the member's highest average compensation.

9 (2) Except as provided in subsection (3), the monthly amount of retirement benefit payable to a member  
10 eligible for disability retirement under the provisions of 19-3-1002(3) is a retirement benefit equal to one fifty-sixth  
11 of the member's highest average compensation multiplied by the member's years of service credit, including any  
12 additional service credit purchased under 19-3-513.

13 (3) The monthly amount of retirement benefit payable to a member eligible for disability retirement under  
14 the provisions of 19-3-1002(3) who has at least 25 years of membership service is a retirement benefit equal to  
15 ~~one-fiftieth~~ 2% of the member's highest average compensation multiplied by the member's years of service credit,  
16 including any additional service credit purchased under 19-3-513.

17 (4) The monthly amount of retirement benefit payable to a member eligible for disability retirement under  
18 the provisions of 19-3-1002(4) who has:

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

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

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

28 ~~(4)~~(5) Subject to the provisions of part 11 of this chapter, a retired member receiving a disability  
29 retirement benefit on February 24, 1991, who has previously been granted a disability retirement benefit under  
30 the provisions of this section will continue to receive the monthly disability retirement benefit as calculated prior

1 to February 24, 1991, subject to any postretirement or cost-of-living increases granted by the legislature."

2

3 **Section 10.** Section 19-3-1106, MCA, is amended to read:

4 **"19-3-1106. Limited reemployment -- reduction of service retirement benefit upon exceeding limits**

5 **-- REPORTING OBLIGATIONS -- LIABILITY -- exceptions.** (1) A retired member under 65 years of age who was hired

6 prior to [the effective date of this act], who has been terminated from employment for at least 90 days, and who

7 is receiving a service retirement benefit or early retirement benefit may return to employment covered by the

8 retirement system for a period not to exceed 960 hours in any calendar year without returning to active service

9 and without any effect to the retiree's retirement benefit. The retirement benefit for any retiree exceeding this

10 960-hour limitation in any calendar year after retirement must be temporarily reduced \$1 for each \$1 earned after

11 working 960 hours in that calendar year.

12 (2) A ~~retiree~~ retired member who is 65 years of age or older and under 70 1/2 years of age, who has

13 been terminated from employment for at least 90 days, and who returns to employment covered by the retirement

14 system is either subject to the 960-hour limitation of subsection (1) or may earn in any calendar year an amount

15 that, when added to the retiree's current annual retirement ~~benefits~~ benefit, will not exceed the member's

16 annualized highest average compensation, adjusted for inflation as of January 1 of the current calendar year,

17 whichever limitation provides the higher limit on earned compensation to the retiree. Upon reaching the applicable

18 limitation, the retiree's benefits must be temporarily reduced \$1 for each \$1 of compensation earned in service

19 beyond the applicable limitation during that calendar year.

20 (3) (A) The employer of a retiree returning to employment covered by the retirement system shall certify

21 to the board the number of hours worked by the retiree and the gross compensation paid to the retiree in that

22 employment during any pay period after retirement. The certification of hours and compensation may be

23 submitted electronically pursuant to rules adopted by the board.

24 (B) AN EMPLOYER THAT FAILS TO TIMELY OR ACCURATELY REPORT THE EMPLOYMENT OF, TIME WORKED BY, OR

25 COMPENSATION PAID TO A RETIRED MEMBER AS REQUIRED UNDER SUBSECTION (3)(A) IS JOINTLY AND SEVERALLY LIABLE

26 WITH THE RETIRED MEMBER FOR REPAYMENT TO THE RETIREMENT SYSTEM OF RETIREMENT BENEFITS PAID TO WHICH THE

27 MEMBER WAS NOT ENTITLED, PLUS INTEREST.

28 (4) A retiree returning to employment covered by the retirement system may elect to return to active

29 membership at any time during this period of covered employment.

30 (5) The following members who return to employment covered by the retirement system are not subject

1 to the hour or earnings limitations in subsections (1) and (2) or the reporting requirements in subsection (3):  
 2 (a) a retired member who is 70 1/2 years of age or older; or  
 3 (b) an elected official in a covered position who declines optional membership as provided in 19-3-412.  
 4 (6) EXCEPT AS PROVIDED IN SUBSECTION (5), IF A RETIRED MEMBER IS EMPLOYED BY AN EMPLOYER IN A  
 5 POSITION THAT IS REPORTABLE TO THE RETIREMENT SYSTEM AND THE RETIRED MEMBER IS CONCURRENTLY WORKING FOR  
 6 THE EMPLOYER IN ANOTHER POSITION THAT IS NOT REPORTABLE TO THE SYSTEM, THE POSITION THAT IS NOT REPORTABLE  
 7 IS CONSIDERED TO BE PART OF THE POSITION THAT IS REPORTABLE TO THE RETIREMENT SYSTEM. ALL EARNINGS OF THE  
 8 RETIRED MEMBER THAT ARE GENERATED BY THESE POSITIONS ARE REPORTABLE TO THE RETIREMENT SYSTEM.

9 ~~(6)~~(7) For the purposes of this section, "employment covered by the retirement system" includes work  
 10 performed by a retiree through a professional employer arrangement, an employee leasing arrangement, or a  
 11 temporary service contractor as those terms are defined in 39-8-102."  
 12

13 **Section 11.** Section 19-3-1205, MCA, is amended to read:

14 **"19-3-1205. Amount of survivorship benefit.** ~~The~~ (1) For a member hired prior to [the effective date  
 15 of this act], the survivorship benefit payable to a the member's designated beneficiary is the actuarial equivalent  
 16 of:

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

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

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

26 (2) For a member hired on or after [the effective date of this act], the survivorship benefit payable to the  
 27 member's designated beneficiary is the actuarial equivalent of:

28 (a) the accrued portion of the early retirement benefit pursuant to 19-3-906(2)(3) that would have been  
 29 payable to the member commencing at age 55 if the member had not attained age 55 at the time of death;

30 (b) if the deceased member had attained age 55 at the time of death, the early retirement benefit that

1 would have been payable to the member if the member had retired immediately prior to death; or  
 2 (c) if the deceased member had attained age 65 at the time of death, the service retirement benefit that  
 3 would have been payable to the member if the member had retired immediately prior to death."

4  
 5 **Section 12.** Section 19-3-2117, MCA, is amended to read:

6 **"19-3-2117. Allocation of contributions and forfeitures.** (1) The member contributions made under  
 7 19-3-315 and additional contributions paid by the member for the purchase of service must be allocated to the  
 8 plan member's retirement account.

9 (2) Subject to adjustment by the board as provided in 19-3-2121, of the employer contributions under  
 10 19-3-316 received:

11 (a) an amount equal to:  
 12 (i) 4.19% of compensation must be allocated to the member's retirement account;  
 13 (ii) 2.37% of compensation must be allocated to the defined benefit plan as the plan choice rate;  
 14 (iii) 0.04% of compensation must be allocated to the education fund as provided in 19-3-112(1)(b); and  
 15 (iv) 0.3% of compensation must be allocated to the long-term disability plan trust fund established  
 16 pursuant to 19-3-2141; and

17 (b) ~~on July 1, 2007, through June 30, 2009, 0.135% of compensation and on July 1, 2009, continuing~~  
 18 ~~until the additional employer contributions terminate pursuant to 19-3-316, 0.27% starting July 1, 2011, through~~  
 19 ~~June 30, 2012, 1.27% of compensation and starting July 1, 2012, 2.27% of compensation must be allocated in~~  
 20 the following order:

21 ~~(i) to the administrative account used by the board to meet the expenses of the plan's startup loan, until~~  
 22 ~~paid in full;~~

23 ~~(ii)(i)~~ to the defined benefit plan to eliminate the plan choice rate unfunded actuarial liability; and

24 ~~(iii)(ii)~~ to the long-term disability plan trust fund to provide disability benefits to eligible members.

25 (3) Forfeitures of employer contributions and investment income on the employer contributions may not  
 26 be used to increase a member's retirement account. The board shall allocate the forfeitures under 19-3-2116 to  
 27 meet the plan's administrative expenses, including startup expenses."

28  
 29 **Section 13.** Section 19-3-2141, MCA, is amended to read:

30 **"19-3-2141. Long-term disability plan -- benefit amount -- eligibility -- administration and**

1 **rulemaking.** (1) For members hired prior to [the effective date of this act]:

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

6 (b) ~~An an~~ eligible member with at least 25 years of membership service is entitled to a disability benefit  
7 equal to ~~one-fiftieth~~ 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 members hired on or after [the effective date of this act], the monthly disability benefit payable  
10 to a 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 highest  
12 average compensation multiplied by the member's years of service credit, including any additional service credit  
13 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 member's  
15 highest average compensation multiplied by the member's years of service credit, including any additional service  
16 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 ~~(2)(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 members hired prior to [the effective date of this act]:

23 ~~(b)(i)~~ (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 ~~(b)(ii)~~ (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; and

27 (c) for members hired on or after [the effective date of this act]:

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

30 (ii) if the member's disability occurred after the member reached 65 years of age, the benefit may be paid

1 for no more than 5 years; and

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

4 ~~(3)~~(4) Application for a disability benefit must be made in accordance with 19-3-1005.

5 ~~(4)~~(5) The board shall make determinations on disability claims and conduct medical reviews in a manner  
6 consistent with the provisions of 19-2-406 and 19-3-1015. A member may seek review of a board determination  
7 as provided in rules adopted by the board.

8 ~~(5)~~(6) If a member receiving a disability benefit under this section dies, the disability benefit payments  
9 cease and the member's beneficiary is entitled to death benefits only as provided for in 19-3-2125.

10 ~~(6)~~(7) The board shall establish a long-term disability plan trust fund from which disability benefit costs  
11 pursuant to this section must be paid. The trust fund must be entirely separate and distinct from the defined  
12 benefit plan trust fund.

13 ~~(7)~~(8) The board shall perform the duties, exercise the powers, and adopt reasonable rules to implement  
14 the provisions of this section."

15

16 **Section 14.** Section 19-21-214, MCA, is amended to read:

17 **"19-21-214. Contributions and allocations for employees in positions covered under the public**  
18 **employees' retirement system.** (1) The contribution rates for employees in positions covered under the public  
19 employees' retirement system who elect to become program members pursuant to 19-3-2112 are as follows:

20 (a) the member's contribution rate must be the rate provided in 19-3-315; and

21 (b) the employer's contribution rate must be the rate provided in 19-3-316.

22 (2) Subject to subsection (3), of the employer's contribution:

23 (a) an amount equal to:

24 (i) 4.49% of compensation must be allocated to the participant's program account;

25 (ii) 2.37% of compensation must be allocated to the defined benefit plan under the public employees'  
26 retirement system as the plan choice rate; and

27 (iii) 0.04% of compensation must be allocated to the education fund pursuant to 19-3-112(1)(b); and

28 (b) ~~on July 1, 2007, through June 30, 2009, 0.135% of compensation and on July 1, 2009, continuing~~  
29 ~~until the additional employer contributions terminate pursuant to 19-3-316, 0.27% starting July 1, 2011, through~~  
30 June 30, 2012, 1.27% of compensation and starting July 1, 2012, 2.27% of compensation must be allocated in

1 the following order:

2 (i) ~~to the administrative account used by the public employees' retirement board to meet the expenses~~  
3 ~~of the defined contribution plan's startup loan, until paid in full; and~~

4 ~~——(ii) to the defined benefit plan to eliminate the plan choice rate unfunded actuarial liability.~~

5 (3) The allocations under subsection (2) are subject to adjustment by the public employees' retirement  
6 board, but only as described in and in a manner consistent with the express provisions of 19-3-2121."

7

8 NEW SECTION. **Section 15. Effective date.** [This act] is effective July 1, 2011.

9

- END -