

## 1 SENATE BILL NO. 333

2 INTRODUCED BY R. ARTHUN

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO PUBLIC EMPLOYEE RETIREMENT  
5 SYSTEMS; ESTABLISHING A CASH BALANCE BENEFIT TIER FOR NEW MEMBERS IN THE PUBLIC  
6 EMPLOYEES' RETIREMENT SYSTEM AND THE TEACHERS' RETIREMENT SYSTEM; PROVIDING  
7 DEFINITIONS; SPECIFYING MEMBERSHIP CRITERIA; ESTABLISHING MEMBER RIGHTS AND BENEFITS;  
8 SPECIFYING RETIREMENT BOARD DUTIES AND AUTHORIZING RULEMAKING; REQUIRING EACH  
9 RETIREMENT BOARD TO SEEK A RULING FROM THE INTERNAL REVENUE SERVICE CONCERNING  
10 COMPLIANCE WITH FEDERAL TAX QUALIFICATION PROVISIONS GOVERNING THE RETIREMENT  
11 SYSTEMS; AMENDING SECTIONS 19-2-303, 19-2-710, 19-3-108, 19-3-315, 19-3-401, 19-3-522, 19-3-901,  
12 19-3-902, 19-3-904, 19-3-906, 19-3-909, 19-3-1002, 19-3-1016, 19-3-1112, 19-3-1202, 19-3-1203, 19-3-1204,  
13 19-3-1205, 19-3-1607, 19-20-101, 19-20-102, 19-20-104, 19-20-702, 19-20-716, 19-20-719, 19-20-731,  
14 19-20-732, 19-20-733, 19-20-805, 19-20-1001, AND 19-20-1002, MCA; AND PROVIDING EFFECTIVE DATES."

15

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

17

18 **Section 1.** Section 19-2-303, MCA, is amended to read:19 **"19-2-303. Definitions.** Unless the context requires otherwise, for each of the retirement systems  
20 subject to this chapter, the following definitions apply:21 (1) "Accumulated contributions" means the sum of all the regular and any additional contributions made  
22 by a member in a defined benefit plan, together with the regular interest or interest credit, as defined in [section  
23 21], on the contributions.24 (2) "Active member" means a member who is a paid employee of an employer, is making the required  
25 contributions, and is properly reported to the board for the most current reporting period.26 (3) "Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory  
27 manner to represent the present value of the benefits to be derived from the additional service to be credited  
28 based on the most recent actuarial valuation for the system and the age, years until retirement, and current salary  
29 of the member.

30 (4) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality

1 table and interest rate assumptions adopted by the board.

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

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

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

7 (8) "Annuity" means:

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

11 (b) in the case of the cash balance tier, payments pursuant to [section 26]; or

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

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

15 (10) "Benefit" means:

16 (a) the service retirement benefit, early retirement benefit, or disability retirement or survivorship benefit  
17 payment provided by a defined benefit retirement plan; or

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

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

22 (12) "Cash balance tier" means the benefit provisions applicable to tier three members, as defined in  
23 19-3-108, of the public employees' retirement system defined benefit plan.

24 ~~(12)~~(13) "Contingent annuitant" means:

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

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

29 ~~(13)~~(14) "Covered employment" means employment in a covered position.

30 ~~(14)~~(15) "Covered position" means a position in which the employee must be a member of the retirement

1 system except as otherwise provided by law.

2 ~~(15)~~(16) "Defined benefit retirement plan" or "defined benefit plan" means a plan within the retirement  
3 systems provided for pursuant to 19-2-302 that is not the defined contribution retirement plan.

4 ~~(16)~~(17) "Defined contribution retirement plan" or "defined contribution plan" means the plan within the  
5 public employees' retirement system established in 19-3-103 that is provided for in chapter 3, part 21, of this title  
6 and that is not a defined benefit plan.

7 ~~(17)~~(18) "Department" means the department of administration.

8 ~~(18)~~(19) "Designated beneficiary" means the person, charitable organization, estate, or trust for the  
9 benefit of a natural person designated by a member or payment recipient to receive any survivorship benefits,  
10 lump-sum payments, or benefit from a retirement account upon the death of the member or payment recipient,  
11 including annuities derived from the benefits or payments.

12 ~~(19)~~(20) "Direct rollover" means a payment by the plan to the eligible retirement plan specified by the  
13 distributee.

14 ~~(20)~~(21) "Disability" or "disabled" means a total inability of the member to perform the member's duties  
15 by reason of physical or mental incapacity. The disability must be incurred while the member is an active member  
16 and must be one of permanent duration or of extended and uncertain duration, as determined by the board on  
17 the basis of competent medical opinion.

18 ~~(24)~~(22) "Distributee" means:

19 (a) a member;

20 (b) a member's surviving spouse;

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

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

25 ~~(22)~~(23) "Early retirement benefit" means the retirement benefit payable to a member following early  
26 retirement and is the actuarial equivalent of the accrued portion of the member's service retirement benefit.

27 ~~(23)~~(24) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover  
28 distribution:

29 (a) an individual retirement account described in section 408(a) of the Internal Revenue Code, 26 U.S.C.  
30 408(a);

1 (b) an individual retirement annuity described in section 408(b) of the Internal Revenue Code, 26 U.S.C.  
2 408(b);

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

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

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

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

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

13 ~~(24)~~(25) "Eligible rollover distribution":

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

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

19 ~~(25)~~(26) "Employee" means a person who is employed by an employer in any capacity and whose salary  
20 is being paid by the employer or a person for whom an interlocal governmental entity is responsible for paying  
21 retirement contributions pursuant to 7-11-105.

22 ~~(26)~~(27) "Employer" means a governmental agency participating in a retirement system enumerated in  
23 19-2-302 on behalf of its eligible employees. The term includes an interlocal governmental entity identified as  
24 responsible for paying retirement contributions pursuant to 7-11-105.

25 ~~(27)~~(28) "Essential elements of the position" means fundamental job duties. An element may be  
26 considered essential because of but not limited to the following factors:

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

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

29 (c) the element is highly specialized.

30 ~~(28)~~(29) "Fiscal year" means a plan year, which is any year commencing with July 1 and ending the

1 following June 30.

2 ~~(29)~~(30) "Inactive member" means a member who terminates service and does not retire or take a refund  
3 of the member's accumulated contributions.

4 ~~(30)~~(31) "Internal Revenue Code" has the meaning provided in 15-30-2101.

5 ~~(31)~~(32) "Member" means either:

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

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

9 ~~(32)~~(33) "Membership service" means the periods of service that are used to determine eligibility for  
10 retirement or other benefits.

11 ~~(33)~~(34) (a) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost  
12 method required to fund accruing benefits for members of a defined benefit retirement plan during any year in  
13 the future.

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

15 ~~(34)~~(35) "Normal retirement age" means the age at which a member is eligible to immediately receive  
16 a retirement benefit based on the member's age, length of service, or both, as specified under the member's  
17 retirement system, without disability and without an actuarial or similar reduction in the benefit.

18 ~~(35)~~(36) "Pension" means benefit payments for life derived from contributions to a retirement plan made  
19 from state- or employer-controlled funds.

20 ~~(36)~~(37) "Pension trust fund" means a fund established to hold the contributions, income, and assets of  
21 a retirement system or plan in public trust.

22 ~~(37)~~(38) "Plan choice rate" means the amount of the employer contribution as a percentage of payroll  
23 covered by the defined contribution plan members that is allocated to the public employees' retirement system's  
24 defined benefit plan pursuant to 19-3-2117 and that is adjusted by the board pursuant to 19-3-2121 to actuarially  
25 fund the unfunded liabilities and the normal cost rate changes in a defined benefit plan resulting from member  
26 selection of the defined contribution plan.

27 ~~(38)~~(39) "Regular contributions" means contributions required from members under a retirement plan.

28 ~~(39)~~(40) "Regular interest" means interest at rates set from time to time by the board.

29 ~~(40)~~(41) "Retirement" or "retired" means the status of a member who has:

30 (a) terminated from service; and

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

2 ~~(41)~~(42) "Retirement account" means an individual account within the defined contribution retirement plan  
3 for the deposit of employer and member contributions and other assets for the exclusive benefit of a member of  
4 the defined contribution plan or the member's beneficiary.

5 ~~(42)~~(43) "Retirement benefit" means:

6 (a) in the case of a defined benefit plan, the periodic benefit payable as a result of service retirement,  
7 early retirement, or disability retirement under a defined benefit plan of a retirement system or a benefit payable  
8 under the cash balance tier. With respect to a defined benefit plan, excluding the cash balance tier, the term does  
9 not mean an annuity.

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

11 ~~(43)~~(44) "Retirement plan" or "plan" means either a defined benefit plan or a defined contribution plan  
12 under one of the public employee retirement systems enumerated in 19-2-302.

13 ~~(44)~~(45) "Retirement system" or "system" means one of the public employee retirement systems  
14 enumerated in 19-2-302.

15 ~~(45)~~(46) "Service" means employment of an employee in a position covered by a retirement system.

16 ~~(46)~~(47) "Service credit" means the periods of time for which the required contributions have been made  
17 to a retirement plan and that ~~are~~ may be used to calculate retirement benefits or survivorship benefits under a  
18 defined benefit retirement plan.

19 ~~(47)~~(48) "Service retirement benefit" means the retirement benefit that the member may receive at normal  
20 retirement age.

21 ~~(48)~~(49) "Statutory beneficiary" means the surviving spouse or dependent child or children of a member  
22 of the highway patrol officers', municipal police officers', or firefighters' unified retirement system who are  
23 statutorily designated to receive benefits upon the death of the member.

24 ~~(49)~~(50) "Supplemental cost" means an element of the total actuarial cost of a defined benefit retirement  
25 plan arising from benefits payable for service performed prior to the inception of the retirement plan or prior to  
26 the date of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure to fund or  
27 otherwise recognize normal cost accruals or interest on supplemental costs. These costs are included in the  
28 unfunded actuarial liabilities of the retirement plan.

29 ~~(50)~~(51) "Survivorship benefit" means payments for life to the statutory or designated beneficiary of a  
30 deceased member who died while in service under a defined benefit retirement plan.

1           ~~(51)~~(52) "Termination of employment", "termination from employment", "terminated employment",  
2 "terminated from employment", "terminate employment", or "terminates employment" means that:

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

5           (b) the member is no longer receiving compensation for covered employment, other than any outstanding  
6 lump-sum payment for compensatory leave, sick leave, or annual leave.

7           ~~(52)~~(53) "Termination of service", "termination from service", "terminated from service", "terminated  
8 service", "terminating service", or "terminates service" means that:

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

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

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

14           (d) the member has been paid all compensation for compensatory leave, sick leave, or annual leave to  
15 which the member was entitled. For the purposes of this subsection ~~(52)~~ (53), compensation does not mean  
16 compensation as a result of a legal action, court order, or settlement to which the board was not a party.

17           ~~(53)~~(54) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a defined benefit  
18 retirement plan's actuarial liabilities at any given point in time over the value of its cash and investments on that  
19 same date.

20           ~~(54)~~(55) "Vested account" means an individual account within a defined contribution plan that is for the  
21 exclusive benefit of a member or the member's beneficiary. A vested account includes all contributions and the  
22 income on all contributions in each of the following accounts:

23           (a) the member's contribution account;

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

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

26           ~~(55)~~(56) "Vested member" or "vested" means:

27           (a) with respect to a defined benefit plan, a member or the status of a member who has at least 5 years  
28 of membership service; or

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

1           ~~(56)~~(57) "Written application" or "written election" means a written instrument, prescribed by the board  
 2 or required by law, properly signed and filed with the board, that contains all required information, including  
 3 documentation that the board considers necessary.

4           ~~(57)~~(58) "Written instrument" includes an electronic record containing an electronic signature, as defined  
 5 in 30-18-102."  
 6

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

8           **"19-2-710. Nonapplication of part to defined contribution plan or cash balance tier.** Except as  
 9 otherwise provided in 19-2-715 and chapter 3, part 21, of this title or [sections 20 through 28], none of the  
 10 provisions of this part apply under the defined contribution plan or the cash balance tier."  
 11

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

13           **"19-3-108. Definitions.** Unless the context requires otherwise, as used in this chapter, the following  
 14 definitions apply:

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

19           (b) Compensation does not include:

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

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

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

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

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

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

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



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

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

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

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

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

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

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

17 (7) "System" or "retirement system" means the public employees' retirement system established in  
18 19-3-103.

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

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

23 (c) "Tier three member" means person who became a member on or after [the effective date of this  
24 section]."

25

26 **Section 4.** Section 19-3-315, MCA, is amended to read:

27 **"19-3-315. Member's contribution to be deducted.** (1) (a) Each member's contribution is:

28 (i) for a tier one member ~~hired prior to July 1, 2011~~, 6.9% of the member's compensation; ~~and~~

29 (ii) for a tier two or tier three member ~~hired on or after July 1, 2011~~, 7.9% of the member's compensation.

30 (b) ~~For members hired on or after July 1, 2011, the~~ The board shall periodically review the required

1 contributions and recommend future adjustments to the legislature as needed to maintain the amortization  
2 schedule set by the board for the payment of the system's unfunded liability.

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

6 (3) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code, 26 U.S.C.  
7 414(h)(2), shall pick up and pay the contributions that would be payable by the member under subsection (1) for  
8 service rendered after June 30, 1985.

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

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

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

16 (5) The member's contributions picked up by the employer must be payable from the same source as  
17 is used to pay compensation to the member and must be included in the member's wages, as defined in  
18 19-1-102, and compensation. The employer shall deduct from the member's compensation an amount equal to  
19 the amount of the member's contributions picked up by the employer and remit the total of the contributions to  
20 the board."

21

22 **Section 5.** Section 19-3-401, MCA, is amended to read:

23 **"19-3-401. Membership -- inactive vested members -- inactive nonvested members.** (1) Except as  
24 otherwise provided in this chapter, all employees become members of the defined benefit plan on the first day  
25 of service. Each employer shall file with the board information affecting the employer's employees' status as  
26 members as the board may require. An employee may become a member of the defined contribution plan only  
27 as provided in Title 19, chapter 3, part 21.

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

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

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

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

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

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

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

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

16

17 **Section 6.** Section 19-3-522, MCA, is amended to read:

18 "**19-3-522. Nonapplication of part to defined contribution plan or cash balance tier.** Except as  
 19 otherwise provided in chapter 3, part 21, of this title or [sections 20 through 28], none of the provisions of this part  
 20 apply under the defined contribution plan or the cash balance tier."

21

22 **Section 7.** Section 19-3-901, MCA, is amended to read:

23 "**19-3-901. Eligibility for service retirement.** (1) A tier one member ~~hired prior to July 1, 2014~~, who has:

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

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

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

29 (2) A tier two member ~~hired on or after July 1, 2014~~, who has:

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

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

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

5

6 **Section 8.** Section 19-3-902, MCA, is amended to read:

7 **"19-3-902. Eligibility for early retirement.** (1) A tier one member ~~hired prior to July 1, 2011~~, who:

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

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

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

13

14 **Section 9.** Section 19-3-904, MCA, is amended to read:

15 **"19-3-904. Amount of service retirement benefit.** (1) The monthly amount of service retirement benefit  
16 payable following retirement to a tier one member ~~hired before July 1, 2011~~, with:

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

20 (b) 25 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 (2) The monthly amount of service retirement benefit payable following retirement to a tier two member  
24 ~~hired on or after July 1, 2011~~, with:

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

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

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

4 (3) Instead of the benefit provided under subsection (1) or (2), a tier one or tier two member may receive  
5 a monthly benefit that is the actuarial equivalent of double the member's accumulated contributions if that benefit  
6 is greater than the benefit the member would have received under subsection (1) or (2)."

7

8 **Section 10.** Section 19-3-906, MCA, is amended to read:

9 **"19-3-906. Early retirement benefit.** (1) (a) Until October 1, 2011, for a tier one member ~~hired prior to~~  
10 ~~July 1, 2014~~, the amount of the early retirement benefit payable following early retirement is the actuarial  
11 equivalent of the accrued portion of the service retirement benefit that would have been payable to the member  
12 commencing at age 60 or upon completion of 30 years of membership service pursuant to 19-3-904(1).

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

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

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

21 (2) Beginning October 1, 2011, for a tier one member ~~hired prior to July 1, 2014~~, the amount of retirement  
22 benefit payable following early retirement is the actuarial equivalent of the accrued portion of the service  
23 retirement benefit that would have been payable to the member commencing at age 60 or upon completion of  
24 30 years of membership service pursuant to 19-3-904(1), with the exception that the benefit must be reduced  
25 using actuarially equivalent factors based on the most recent valuation of the system.

26 (3) For a tier two member ~~hired on or after July 1, 2014~~, the amount of the early retirement benefit  
27 payable following early retirement is the actuarial equivalent of the accrued portion of the service retirement  
28 benefit that would have been payable to the member commencing at age 65 pursuant to 19-3-904(2), with the  
29 exception that the benefit must be reduced using actuarially equivalent factors based on the most recent valuation  
30 of the system.

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

3

4 **Section 11.** Section 19-3-909, MCA, is amended to read:

5 **"19-3-909. Nonapplication of part to defined contribution plan or cash balance tier.** Except as  
6 otherwise provided in chapter 3, part 21, of this title or [sections 20 through 28], none of the provisions of this part  
7 apply under the defined contribution plan or the cash balance tier."

8

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

10 **"19-3-1002. Eligibility for disability retirement.** (1) Except as provided in subsections (2) and (3), a  
11 member entering service prior to February 24, 1991, who is not eligible for service retirement or early retirement  
12 but who has at least 5 years of membership service and has become disabled while an active member is eligible  
13 for disability retirement, as provided in 19-3-1008.

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

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

30 (b) An individual who became a member after February 24, 1991, and ~~before July 1, 2011,~~ is a tier one

1 member who has completed 5 years of membership service and has become disabled while an active member  
 2 is covered for disability purposes under the provisions of 19-3-1008(2) or (3).

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

6

7 **Section 13.** Section 19-3-1016, MCA, is amended to read:

8 **"19-3-1016. Nonapplication of part to defined contribution plan or cash balance tier.** Except as  
 9 otherwise provided in chapter 3, part 21, of this title or [sections 20 through 28], none of the provisions of this part  
 10 apply under the defined contribution plan or the cash balance tier."

11

12 **Section 14.** Section 19-3-1112, MCA, is amended to read:

13 **"19-3-1112. Nonapplication of part to defined contribution plan or cash balance tier.** Except as  
 14 otherwise provided in chapter 3, part 21, of this title or [sections 20 through 28], none of the provisions of this part  
 15 apply under the defined contribution plan or the cash balance tier."

16

17 **Section 15.** Section 19-3-1202, MCA, is amended to read:

18 **"19-3-1202. Amount of death payment -- nonapplication of section.** (1) The amount of death  
 19 payment to be made to the designated beneficiary of a deceased member is the sum of subsections (1)(a), (1)(b),  
 20 and (1)(c) as follows:

21 (a) the member's accumulated contributions;

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

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

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

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

1           (3) This section does not apply under the cash balance tier."

2  
3           **Section 16.** Section 19-3-1203, MCA, is amended to read:

4           **"19-3-1203. Election of optional death annuity.** The designated beneficiary of a deceased member  
5 may elect, by filing a written application with the board, to have the death payment provided for in 19-3-1202 or  
6 [section 28] paid in an actuarially equivalent form, subject to rules that the board may adopt. The annuity  
7 payments are not subject to increases that may be granted to other monthly retirement benefits."

8  
9           **Section 17.** Section 19-3-1204, MCA, is amended to read:

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

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

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

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

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

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

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

26           (4) This section does not apply under the cash balance tier."

27  
28           **Section 18.** Section 19-3-1205, MCA, is amended to read:

29           **"19-3-1205. Amount of survivorship benefit -- nonapplication of section.** (1) For a tier one member  
30 hired prior to July 1, 2014, the survivorship benefit payable to the member's designated beneficiary is the actuarial



1 equivalent of:

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

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

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

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

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

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

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

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

20

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

22 **"19-3-1607. Nonapplication of part to defined contribution plan or cash balance tier.** Unless  
23 otherwise explicitly provided in this part, none of the provisions of this part apply under the defined contribution  
24 plan or the cash balance tier."

25

26 **NEW SECTION. Section 20. Legislative intent.** The intent of the cash balance tier established  
27 pursuant to [sections 20 through 28] is to mitigate the risk of future unfunded liabilities by establishing for new  
28 members of the defined benefit plan retirement benefits that will be based on a member's actual contributions,  
29 a fixed interest credit, and a matching amount that increases according to the member's years of actual service.

30

1            **NEW SECTION. Section 21. Definitions.** Unless the context requires otherwise, as used in [sections  
2 20 through 28], the following definitions apply:

3            (1) "Interest credit" means the amount of interest credited under [section 22] to a member's contributions.

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

5            (3) "Vested cash balance amount" means the amount that a vested member is entitled to receive under  
6 [section 25].

7  
8            **NEW SECTION. Section 22. Interest credit -- investment goals.** (1) The interest credit to be applied  
9 to a member's contributions must be 4.5%, compounded annually.

10           (2) This section may not be interpreted as encouraging or requiring lower investment goals for retirement  
11 system assets.

12  
13           **NEW SECTION. Section 23. Termination of membership -- withdrawal or rollover.** (1) After  
14 terminating employment, a nonvested member may terminate membership in the retirement system by electing  
15 a refund under the applicable provisions of 19-2-602.

16           (2) After terminating employment, a vested member may terminate membership in the retirement system  
17 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 24. 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 cash  
25 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  
29 match under [section 25(2)].

30

1            **NEW SECTION. Section 25. Vested cash balance amount -- eligibility.** A member who is vested and  
2 who is at least 60 years of age has attained normal retirement age and is entitled to a vested cash balance  
3 amount that is the total of:

- 4            (1) the member's accumulated contributions; and  
5            (2) a percentage match of the member's accumulated contributions as follows:  
6            (a) 50% for members with 5 years of membership service;  
7            (b) 60% for members with 6 years of membership service;  
8            (c) 70% for members with 7 years of membership service;  
9            (d) 80% for members with 8 years of membership service;  
10           (e) 90% for members with 9 years of membership service; or  
11           (f) 100% for members with 10 or more years of membership service.

12  
13           **NEW SECTION. Section 26. Retirement benefit distribution options.** (1) A vested member who is  
14 entitled to the vested cash balance amount under [section 25] may elect to receive a retirement benefit that is the  
15 actuarial equivalent of the member's vested cash balance amount payable as an annuity for the life of the  
16 member or payable under option 2, 3, or 4, as provided for in 19-3-1501.

- 17           (2) To receive a retirement benefit under this section, the member must have terminated employment.  
18           (3) A member receiving a benefit under this section is a retired member.

19  
20           **NEW SECTION. Section 27. Reemployment after retirement.** (1) A member who is reemployed in  
21 a covered position after receiving at least one benefit payment must continue to receive the member's retirement  
22 benefit.

- 23           (2) The member must be considered a new member with respect to the reemployment, is not vested until  
24 the member completes 5 years of service after reemployment, and may accrue a second retirement benefit based  
25 only on the member's accumulated contributions after reemployment, subject to all applicable provisions of  
26 chapter 2 and this chapter.

27  
28           **NEW SECTION. Section 28. Death and disability benefits -- rulemaking.** (1) (a) The designated  
29 beneficiary of a nonvested member who dies before retirement is entitled to receive a lump-sum payment of the  
30 member's accumulated contributions.

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

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

5 (b) A vested member who becomes disabled is entitled to receive a lump-sum payment of the member's  
6 vested cash balance amount or a distribution of the member's vested cash balance amount payable as provided  
7 in [section 26].

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

10

11 **Section 29.** Section 19-20-101, MCA, is amended to read:

12 **"19-20-101. Definitions.** As used in this chapter, unless the context clearly indicates otherwise, the  
13 following definitions apply:

14 (1) "Accumulated contributions" means the sum of all the amounts deducted from the compensation of  
15 a member or paid by a member and credited to the member's individual account in the annuity savings account,  
16 together with regular interest or interest credit, as defined in [section 44]. ~~Regular interest must be computed and~~  
17 ~~allowed to provide a benefit at the time of retirement.~~

18 (2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality  
19 table and interest rate assumption set by the retirement board.

20 (3) "Average final compensation" means a member's highest average earned compensation in 3  
21 consecutive years, determined pursuant to 19-20-805, on which contributions have been made.

22 (4) "Beneficiary" means one or more persons formally designated by a member or retiree to receive a  
23 retirement allowance or payment upon the death of the member or retiree, except for a joint annuitant.

24 (5) "Benefit recipient" means a retired member, a joint annuitant, or a beneficiary who is receiving a  
25 retirement allowance.

26 (6) "Cash balance tier" means the benefit provisions applicable to tier two members.

27 ~~(6)(7)~~ "Creditable service" is that service defined by 19-20-401.

28 ~~(7)(8)~~ (a) "Earned compensation" means, except as limited by subsections ~~(7)(b)~~ (8)(b) and ~~(7)(c)~~ (8)(c)  
29 or by 19-20-715, remuneration paid for the service of a member out of funds controlled by an employer before  
30 any pretax deductions allowed under the Internal Revenue Code are deducted.

- 1 (b) Earned compensation does not include:
- 2 (i) direct employer premium payments on behalf of members for medical, pharmaceutical, disability, life,
- 3 vision, dental, or any other insurance;
- 4 (ii) any direct employer payment or reimbursement for:
- 5 (A) professional membership dues;
- 6 (B) maintenance;
- 7 (C) housing;
- 8 (D) day care;
- 9 (E) automobile, travel, lodging, or entertaining expenses; or
- 10 (F) any similar form of maintenance, allowance, or expenses;
- 11 (iii) the imputed value of health, life, or disability insurance or any other fringe benefits;
- 12 (iv) any noncash benefit provided by an employer to or on behalf of a member;
- 13 (v) termination pay unless included pursuant to 19-20-716;
- 14 (vi) compensation paid to a member from a plan for the deferral of compensation under section 457(f)
- 15 of the Internal Revenue Code, 26 U.S.C. 457(f);
- 16 (vii) payment for sick, annual, or other types of leave paid to a member prior to termination from
- 17 employment or accrued in excess of that normally allowed;
- 18 (viii) incentive or bonus payments paid to a member that are not part of a series of annual payments; or
- 19 (ix) any similar payment or reimbursement made to or on behalf of a member by an employer.
- 20 (c) Adding a direct employer-paid or noncash benefit to an employee's contract or subtracting the same
- 21 or a similar amount as a pretax deduction is considered a fringe benefit and not earned compensation.
- 22 ~~(8)~~(9) "Employer" means:
- 23 (a) the state of Montana;
- 24 (b) a public school district, as provided in 20-6-101 and 20-6-701;
- 25 (c) the office of public instruction;
- 26 (d) the board of public education;
- 27 (e) an education cooperative;
- 28 (f) the Montana school for the deaf and blind, as described in 20-8-101;
- 29 (g) the Montana youth challenge program, as defined in 10-1-101;
- 30 (h) a state youth correctional facility, as defined in 41-5-103;

- 1 (i) the Montana university system;
- 2 (j) a community college; or
- 3 (k) any other agency or subdivision of the state that employs a person who is designated a member of
- 4 the retirement system pursuant to 19-20-302.

5 ~~(9)~~(10) "Full-time service" means service that is:

- 6 (a) at least 180 days in a fiscal year;
- 7 (b) at least 140 hours a month during at least 9 months in a fiscal year; or
- 8 (c) at least 1,080 hours in a fiscal year under an alternative school calendar adopted by a school board
- 9 and reported to the office of public instruction as required by 20-1-302. The standard for full-time service for a
- 10 school district operating under an alternative school calendar must be applied uniformly to all employees of the
- 11 school district required to be reported to the retirement system.

12 ~~(10)~~(11) "Internal Revenue Code" has the meaning provided in 15-30-2101.

13 ~~(11)~~(12) "Joint annuitant" means the one person that a retired member who has elected an optional

14 allowance under 19-20-702 has designated to receive a retirement allowance upon the death of the retired

15 member.

16 ~~(12)~~(13) "Member" means a person who has an individual account in the annuity savings account. An

17 active member is a person included under the provisions of 19-20-302. An inactive member is a person included

18 under the provisions of 19-20-303.

19 ~~(13)~~(14) "Normal form" or "normal form benefit" means a monthly retirement benefit payable during the

20 lifetime of the retired member.

21 ~~(14)~~(15) "Normal retirement age" means an age no earlier than 55 years of age, with the right to receive

22 immediate retirement benefits without an actuarial reduction in the benefits.

23 ~~(15)~~(16) "Part-time service" means service that is not full-time service. Part-time service must be credited

24 in the proportion that the actual time worked compares to full-time service.

25 ~~(16)~~(17) "Regular interest" means interest at a rate set by the retirement board in accordance with

26 19-20-501(2).

27 ~~(17)~~(18) "Retired", "retired member", or "retiree" means a person who has terminated employment that

28 qualifies the person for membership and who has received at least one monthly retirement benefit paid pursuant

29 to this chapter.

30 ~~(18)~~(19) "Retirement allowance" or "retirement benefit" means a monthly payment due to a retired

1 member who has qualified for a service, cash balance, or disability retirement or due to a joint annuitant or  
2 beneficiary.

3 ~~(19)(20)~~ "Retirement board" or "board" means the retirement system's governing board provided for in  
4 2-15-1010.

5 ~~(20)(21)~~ "Retirement system", "system", or "plan" means the teachers' retirement system of the state of  
6 Montana provided for in 19-20-102.

7 ~~(21)(22)~~ "Service" means the performance of duties that would entitle the person to active membership  
8 in the retirement system under the provisions of 19-20-302.

9 ~~(22)(23)~~ "Termination" or "terminate" means that the member has severed the employment relationship  
10 with the member's employer and that all, if any, payments due upon termination of employment, including but not  
11 limited to accrued sick and annual leave balances, have been paid to the member.

12 ~~(23)(24)~~ (a) "Termination pay" means any form of bona fide vacation leave, sick leave, severance pay,  
13 amounts provided under a window or early retirement incentive plan, or other payments contingent on the  
14 employee terminating employment.

15 (b) Termination pay does not include:

16 (i) amounts that are not wages under section 3121 of the Internal Revenue Code, determined without  
17 regard to the wage base limitation; and

18 (ii) amounts that are payable to a member from a plan for the deferral of compensation under section  
19 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f).

20 (25) (a) "Tier one member" means a person who became a member before [the effective date of this  
21 section] and has not withdrawn the person's contributions.

22 (b) "Tier two member" means a person who became a member on or after [the effective date of this  
23 section].

24 ~~(24)(26)~~ "Vested" means that a member has been credited with at least 5 full years of membership  
25 service upon which contributions have been made and has a right to a future retirement benefit.

26 ~~(25)(27)~~ "Written application" or "written election" means a written instrument, required by statute or the  
27 rules of the board, properly signed and filed with the board, that contains all the required information, including  
28 documentation that the board considers necessary."

29

30 **Section 30.** Section 19-20-102, MCA, is amended to read:

1           **"19-20-102. Retirement system -- policy.** (1) The state teachers' retirement system created under the  
 2 provisions of Chapter 87, Laws of 1937, is the state teachers' retirement system of the state of Montana, and the  
 3 provisions of this chapter do not affect or impair the validity of any action taken by its governing board or the rights  
 4 of any person arising under the provisions of Chapter 87, Laws of 1937, or any subsequent amendment to this  
 5 chapter. The state teachers' retirement system is known as "The Teachers' Retirement System of the State of  
 6 Montana" and in that name shall transact all business of the retirement system, hold its assets in trust, and have  
 7 the powers and privileges of a corporation that may be necessary to administer the provisions of this chapter.

8           (2) It is the policy of the state to:

9           (a) provide equitable retirement benefits to:

10           (i) a tier one members of the teachers' retirement system member based on each the member's normal  
 11 service and salary; and

12           (ii) a tier two member based on the member's vested cash balance amount, as defined in [section 43].

13           (b) limit the effect on the retirement system of isolated salary increases received by a member, including  
 14 but not limited to end-of-career promotions or one-time salary enhancements during the member's last years of  
 15 employment; and

16           (c) limit the compensation that a retired member may earn after retirement while working in a position  
 17 that would normally be covered under the teachers' retirement system to the amount determined under  
 18 19-20-731.

19           (3) It is the policy of the state to ensure that public employees are reported to the correct public  
 20 retirement system. The retirement system shall enter into memoranda of understanding with the public  
 21 employees' retirement board to exchange retirement system-related confidential information regarding members,  
 22 former members, or retirees. A memorandum must state that:

23           (a) the information may be used only for reasons related to verifying appropriate pension plan  
 24 participation; and

25           (b) the requesting retirement system agrees to protect the confidentiality of the information and will  
 26 disclose the requested information only as necessary to conduct official business."  
 27

28           **Section 31.** Section 19-20-104, MCA, is amended to read:

29           **"19-20-104. Guarantee by state.** Regular interest ~~charges~~ and interest credit, as defined in [section 43],  
 30 payable, the creation and maintenance of reserves in the pension accumulation account, ~~and~~ the maintenance



1 of accumulated contributions in the annuity savings account, as provided for in this chapter, and the payment of  
2 all retirement allowances, refunds, and other benefits granted under the retirement system are obligations of the  
3 state of Montana."  
4

5 **NEW SECTION. Section 32. Nonapplication of part to cash balance tier.** Except as otherwise  
6 provided in [sections 42 through 50], none of the provisions of this part apply under the cash balance tier.  
7

8 **Section 33.** Section 19-20-702, MCA, is amended to read:

9 **"19-20-702. Optional allowances -- certain period and life allowances.** (1) Until the first payment on  
10 account of any benefit becomes normally due, any member may elect to receive one of the allowances described  
11 in subsection (2) or (3) in lieu of the normal form of retirement allowance for a tier one member, which is provided  
12 for in 19-20-902 and part 8 of this chapter, or for a tier two member as provided in [section 48].

13 (2) An optional allowance is the actuarial equivalent of the member's service retirement or disability  
14 retirement allowance at the time of the member's retirement effective date and provides an allowance payable  
15 to the member throughout the member's lifetime and, upon the member's death, an allowance payable to the joint  
16 annuitant that the member nominated by written designation, duly acknowledged and filed with the retirement  
17 board at the time of the member's retirement, in accordance with one of the following options:

18 (a) Option A--the optional allowance will be paid to the member throughout the member's lifetime and,  
19 upon the member's death, continue throughout the lifetime of the member's joint annuitant.

20 (b) Option B--the optional allowance will be paid to the member throughout the member's lifetime, and  
21 upon the member's death, one-half of the optional allowance will be continued throughout the lifetime of the  
22 member's joint annuitant.

23 (c) Option C--the optional allowance will be paid to the member throughout the member's lifetime, and  
24 upon the member's death, two-thirds of the optional allowance will be continued throughout the lifetime of the  
25 member's joint annuitant.

26 (d) Upon election of an optional allowance and designation of a joint annuitant, any prior or subsequent  
27 designation of a beneficiary by the retired member is void.

28 (3) (a) In lieu of any other option available in this section, a member may elect to receive one of the  
29 following allowances that must be paid over the certain period of time or for the member's lifetime, whichever is  
30 greater:

- 1 (i) 10 years if the member is 75 years of age or younger at the time of retirement; or  
2 (ii) 20 years if the member is 65 years of age or younger at the time of retirement.
- 3 (b) At the time of retirement, the member shall file with the board a written nomination of beneficiaries  
4 to receive payments if the member dies before the end of the certain period elected. Unless limited by a family  
5 law order, the nominated beneficiary may be changed by the member at any time by filing with the board a written  
6 notice designating different beneficiaries.
- 7 (4) (a) Upon written application to the retirement board, a retired member whose effective date of  
8 retirement is before October 1, 1993, and who is receiving an optional retirement allowance may select a different  
9 actuarially equivalent optional allowance and designate a different joint annuitant if:
- 10 (i) the original joint annuitant has died. The benefit must convert to the normal form of retirement  
11 allowance effective the first of the month following the death of the joint annuitant.
- 12 (ii) the member has been divorced from the original joint annuitant and the original joint annuitant has not  
13 been granted the right to receive the optional retirement allowance as part of the divorce settlement. The benefit  
14 must convert to the normal form of retirement allowance effective the first of the month following receipt of a  
15 written application and verification that the original joint annuitant has not been granted the right to receive the  
16 optional retirement allowance as part of the divorce settlement.
- 17 (b) Upon receipt of the written application, the board shall actuarially adjust the member's monthly  
18 retirement or disability allowance to reflect the change.
- 19 (5) A retired member receiving an optional retirement allowance pursuant to subsection (2)(a), (2)(b),  
20 or (2)(c) that is effective after October 1, 1993, may file a written application to select a different actuarially  
21 equivalent optional allowance and designate a different joint annuitant or to revert the optional retirement  
22 allowance to the full normal form of retirement allowance available at the time of retirement if:
- 23 (a) the original joint annuitant has died. The benefit must revert to the full normal form of retirement  
24 allowance effective the first of the month following the death of the original joint annuitant.
- 25 (b) the member has been divorced from the original joint annuitant and the original joint annuitant has  
26 not been granted the right to receive the optional retirement allowance as part of the divorce settlement. The  
27 benefit must revert to the full normal form of retirement allowance effective the first of the month following receipt  
28 of a written application and verification that the original joint annuitant has not been granted the right to receive  
29 the optional retirement allowance as part of the divorce settlement.
- 30 (6) The normal form of retirement allowance available must be increased by the value of any

1 postretirement adjustments received by the member since the effective date of retirement.

2 (7) The retired member shall file the written application required by subsection (4) or (5) with the board  
3 within 18 months of the death or divorce of the joint annuitant."

4

5 **Section 34.** Section 19-20-716, MCA, is amended to read:

6 **"19-20-716. Termination pay to tier one member.** (1) If a tier one member terminates and receives  
7 termination pay at the time of retirement, the member shall select, subject to subsections (5) and (6), by signing  
8 a binding, irrevocable written election at least 90 days before the member's termination date, one of the following  
9 options:

10 (a) Option 1--The member may use the total termination pay in the calculation of the member's average  
11 final compensation. The member and the employer shall pay contributions to the retirement system as determined  
12 by the board to adequately compensate the system for the additional retirement benefit. The contributions must  
13 be made at the time of termination.

14 (b) Option 2--The member may use a yearly amount of the total termination pay added to each of the  
15 3 consecutive years' salary used in the calculation of the member's average final compensation. To determine  
16 the amount of termination pay used in the calculation of average final compensation, termination pay must be  
17 divided by the total number of years of creditable service to determine a yearly amount. The member and the  
18 employer shall pay contributions on the termination pay according to the rates provided for in 19-20-602 and  
19 19-20-605(1). For the purposes of this subsection (1)(b), the employer shall also pay as a contribution an amount  
20 equal to the termination pay multiplied by the rate established in 19-20-607 that would have been payable by the  
21 state as a supplemental contribution. The contributions must be made at the time of termination.

22 (c) Option 3--The member may exclude the termination pay from the average final compensation. A  
23 contribution is not required of either the member or the employer.

24 (2) A binding, irrevocable written election required by this section must be signed by both the member  
25 and the employer at least 90 days prior to the member's termination date and must contain statements with  
26 regard to the contributions required to be made by the member under subsections (1)(a) and (1)(b) that:

27 (a) the contributions being picked up, although designated as member contributions, are being paid by  
28 the employer directly to the system in lieu of contributions by the member and that the picked up contributions  
29 are paid from the same source as compensation is paid;

30 (b) the member may not choose to directly receive the amounts deducted from the member's termination

1 pay instead of having them paid by the employer to the system;

2 (c) the member may not prepay any portion of the contributions; and

3 (d) the effective date of the pickup is the date that the irrevocable written election is signed by both the  
4 member and employer. The effective date must be at least 90 days prior to the date of the member's termination.  
5 The pickup does not apply to a contribution made before the effective date of the pickup.

6 (3) For the purpose of this section, the date of termination is the last day the member is performing any  
7 services covered under this chapter.

8 (4) Pursuant to subsection (2), contributions required under subsection (1)(a) or (1)(b) must be:

9 (a) deducted from the portion of termination pay that:

10 (i) constitutes wages for the purposes of section 3121 of the Internal Revenue Code, determined without  
11 regard to the wage base limitation; and

12 (ii) can be included in the member's gross income for federal tax purposes; and

13 (b) picked up by the employer, except as provided in subsections (5) and (6).

14 (5) A member's contributions greater than the total amount of the member's termination pay may not be  
15 picked up by the employer and are subject to the limitations of section 415 of the Internal Revenue Code.

16 (6) If a member and the member's employer fail to sign the written election within the time period required  
17 in subsection (1), the member may contribute for the purposes specified in subsections (1)(a) and (1)(b) on all  
18 or any part of the termination pay received. A contribution made pursuant to this subsection may not be picked  
19 up by the employer and is subject to the limitations of section 415 of the Internal Revenue Code."

20

21 **Section 35.** Section 19-20-719, MCA, is amended to read:

22 **"19-20-719. Guaranteed annual benefit adjustment -- rulemaking nonapplication of section. (1)**

23 On January 1 of each year, the retirement allowance payable to each recipient who is eligible under subsection  
24 (2) must be increased by 1.5%.

25 (2) A benefit recipient is eligible for and must receive the annual benefit adjustment provided for in this  
26 section if the retiree has received at least 36 monthly retirement benefit payments prior to January 1 of the year  
27 in which the adjustment is to be made.

28 (3) This section does not apply under the cash balance tier."

29

30 **Section 36.** Section 19-20-731, MCA, is amended to read:

1           **"19-20-731. Postretirement employment limitations -- cancellation and recalculation of benefits**  
2 **-- reporting obligation of retired member -- nonapplication of section.** (1) (a) Except as [provided in  
3 19-20-732 or as] otherwise provided in this section, a retired member may be employed by an employer in a  
4 position that is reportable to the retirement system and may earn, without an adjustment of retirement benefits,  
5 an amount not to exceed the greater of:

6           (i) one-third of the sum of the member's average final compensation; or

7           (ii) one-third of the median of the average final compensation for members retired during the preceding  
8 fiscal year as determined by the retirement board.

9           (b) The maximum compensation that a retired member may earn under subsection (1)(a) without an  
10 adjustment of retirement benefits includes all amounts paid to or on behalf of the retired member and the value  
11 of all benefits provided to or on behalf of the retired member by the employer, including any amounts deferred  
12 for payment to a later year, excluding:

13           (i) health insurance premiums directly paid by the employer on the retired member's behalf for health  
14 care coverage provided by the employer;

15           (ii) the value of housing provided by the employer to the retired member;

16           (iii) the amount of employment-related travel expenses reimbursed to the retired member by the  
17 employer;

18           (iv) de minimis fringe benefits, as defined in 26 U.S.C. 132(e), paid by the employer to or on behalf of the  
19 retired member; and

20           (v) payroll taxes paid by the employer on behalf of the retired member.

21           (2) On July 1 of each year following the member's retirement effective date, the maximum that a retired  
22 member may earn under subsection (1)(a)(i) is increased by an amount equal to the consumer price index  
23 increase for urban wage earners compiled by the bureau of labor statistics of the United States department of  
24 labor or its successor agency in the preceding calendar year.

25           (3) [Except as provided in 19-20-732,] the retirement benefit of a retired member:

26           (a) employed and earning more than allowed by subsections (1) and (2) must be temporarily reduced  
27 by \$1 for each dollar earned over the maximum allowed. Monthly benefits must be reduced beginning as soon  
28 as practical after the excess earnings have been reported to the retirement system by the employer. The  
29 retirement benefit must be suspended if the retired member's earnings over the maximum allowed exceed the  
30 gross monthly benefit amount.

1 (b) employed in one or more part-time positions under one or more contracts providing for an aggregate  
 2 payment of a total amount that is more than the maximum allowed must be suspended effective on the date on  
 3 which the retired member returns to employment.

4 (4) For purposes of this section, the term "employed in a position that is reportable to the retirement  
 5 system" includes any work performed or service provided by a retired member to or on behalf of an employer,  
 6 including but not limited to work performed or service provided through a professional employer arrangement,  
 7 an employee leasing arrangement, as a temporary service contractor, or as an independent contractor.

8 (5) For purposes of this section, the employment status and maximum compensation of a retired member  
 9 who is employed in more than one position or under more than one contract, whether with one employer or more  
 10 than one employer, is the aggregate full-time equivalency and compensation derived from all positions reportable  
 11 to the retirement system in which the retired member is employed.

12 (6) Within 30 days of the date of the execution of an agreement for the employment of a retired member  
 13 or of the first date on which the retired member provides services if no agreement is entered into, the retired  
 14 member shall provide written notice of the postretirement employment to the retirement system.

15 (7) For purposes of this section, if a retired member is employed by an employer in a position that is  
 16 reportable to the retirement system and the retired member is concurrently working for the employer in another  
 17 position that is not reportable to the system, the position that is not reportable is considered to be part of the  
 18 position that is reportable to the retirement system. All earnings of the retired member that are generated by these  
 19 positions are reportable to the retirement system.

20 (8) The retirement allowance of any retired member who is employed in a position and who elects to  
 21 participate in the optional retirement program under Title 19, chapter 21, must be suspended until the member  
 22 is no longer employed in the position and is no longer participating in the optional retirement program.

23 (9) This section does not apply under the cash balance tier. (Bracketed language terminates June 30,  
 24 2015--sec. 5, Ch. 129, L. 2009.)"

25

26 **Section 37.** Section 19-20-732, MCA, is amended to read:

27 **"19-20-732. (Temporary) Reemployment of certain retired teachers, specialists and administrators**  
 28 **-- procedure -- definitions -- nonapplication of section.** (1) Subject to the provisions of this section:

29 (a) a teacher, specialist, or administrator who has been receiving a retirement allowance for no less than  
 30 2 months, except a disability retirement allowance pursuant to part 9 of this chapter, may be employed on a

1 full-time basis by an employer for a maximum of 3 years during the lifetime of the retired member without the loss  
2 or interruption of any payments or retirement benefits if:

3 (i) the retired member completed 30 or more years of creditable service prior to retirement;  
4 (ii) the retired member holds a valid certificate pursuant to the provisions of 20-4-106; and  
5 (iii) each year, prior to employing a retired member, the employer certifies to the office of public instruction  
6 and to the retirement board that after having advertised the position for that year the employer has been unable  
7 to fill the position because the employer either has received no qualified applications or has not received an  
8 acceptance of an offer of employment made to a nonretired teacher, specialist, or administrator;

9 (b) the employer certification required by this section must include the retired member's name and social  
10 security number and a copy of the proposed contract of employment for the retired member;

11 (c) upon receipt of the employer's certification and of the proposed contract of employment, the  
12 retirement board shall verify whether the retired member meets the requirements of subsection (1)(a)(i) and shall  
13 notify the employer and the retired member of its findings;

14 (d) a retired member reemployed under this section is ineligible for active membership under 19-20-302  
15 and is ineligible to receive service credit under any retirement system identified in Title 19; and

16 (e) the retirement board shall report to the appropriate committee each legislative session regarding the  
17 implementation of and results arising from this section.

18 (2) An employer employing a retired member pursuant to this section shall contribute monthly to the  
19 retirement system an amount equal to the sum of the contribution rates required by 19-20-602, 19-20-604,  
20 19-20-605, and 19-20-607.

21 (3) A retired member reemployed pursuant to this section is exempt from the earnings and employment  
22 limits provided in 19-20-731.

23 (4) If reemployed in a position covered by a collective bargaining agreement pursuant to Title 39, chapter  
24 31, the retired member is subject to all the terms and conditions of the agreement and is entitled to all the benefits  
25 and protections of the agreement.

26 (5) The board may adopt rules to implement this section.

27 (6) As used in this section, the following definitions apply:

28 (a) "Employer" means a school district as defined in 20-6-101 and 20-6-701.

29 (b) "Year" means all or any part of a school year.

30 (7) This section does not apply under the cash balance tier. (Terminates June 30, 2015--sec. 5, Ch. 129,

1 L. 2009.)"

2

3 **Section 38.** Section 19-20-733, MCA, is amended to read:

4 **"19-20-733. Resumption of employment by retired member -- suspension of benefits --**  
5 **nonapplication of section.** (1) [Except as provided in 19-20-732,] if a retired member returns to employment  
6 in a position covered by the retirement system and becomes an active contributing member, benefits must be  
7 suspended until the member terminates all employment and applies to have benefits reinstated.

8 (2) Except as provided in subsection (4), upon termination and retirement of a previously retired member  
9 who was reinstated to active membership pursuant to 19-20-731 before July 1, 2009:

10 (a) if the member earned less than 1 year of creditable service, the original benefit and retirement option  
11 that the member was receiving at the time of suspension of benefits must be reinstated beginning either the first  
12 of the month following termination or on July 1 following the date on which the retired member was reemployed,  
13 whichever is later; or

14 (b) if the member earned 1 year or more of creditable service, retirement benefits must be recalculated  
15 under 19-20-804 if the member would qualify for a service retirement benefit under 19-20-801 or under 19-20-802  
16 if the member is eligible for early retirement. The recalculated benefit must include the service credit accumulated  
17 at the time of the member's previous retirement, plus any service credit accumulated subsequent to  
18 reemployment. The recalculated benefit amount must be increased by the amount of any benefit enhancement  
19 received pursuant to 19-20-719 that the retired member was receiving when the member's benefits were  
20 suspended.

21 (3) (a) Except as provided in subsection (4), upon the subsequent retirement of a formerly retired  
22 member who was reinstated to active membership pursuant to 19-20-731 on or after July 1, 2009, and earned:

23 (i) at least 3 years of membership service following suspension of benefits, the member is entitled to  
24 resume receiving the suspended benefit in accordance with the retirement benefit option and joint annuitant  
25 previously selected, plus an additional benefit based upon the new creditable service and compensation earned.  
26 The second benefit must be calculated as provided under 19-20-804 if the member is eligible for a service  
27 retirement benefit or under 19-20-802 if the member is eligible for early retirement. The second benefit must be  
28 paid under the same retirement benefit option and with the same joint annuitant originally elected.

29 (ii) less than 3 years of membership service following suspension of benefits, the member is entitled to  
30 resume receiving the suspended benefit in accordance with the retirement benefit option previously selected, plus



1 a refund of the employee contributions contributed after the member was reinstated to active service, plus  
2 interest.

3 (b) If a member dies during the period of reemployment following an initial retirement, the member must  
4 be considered as retiring on the day preceding the date of death and benefits must be determined according to  
5 the following:

6 (i) If the member elected the normal form benefit prior to reemployment, the member's designated  
7 beneficiary must receive an amount equal to the member's accumulated contributions on deposit.

8 (ii) If the member elected a retirement option pursuant to 19-20-702 prior to reemployment, the benefits  
9 due are payable in accordance with the terms of the original option elected and this subsection (3).

10 (4) If a retired member who has not attained normal retirement age is reemployed with the same  
11 employer within 30 days from the member's effective date of retirement or if that member is guaranteed  
12 reemployment with the same employer, the member must be considered to have continued in the status of an  
13 active member and not to have separated from service. Any retirement allowance payments received by the  
14 member must be repaid to the system, together with interest, at the actuarially assumed rate, and the retirement  
15 allowance must be canceled.

16 (5) This section does not apply under the cash balance tier. (Bracketed language terminates June 30,  
17 2015--sec. 5, Ch. 129, L. 2009.)"

18

19 **Section 39.** Section 19-20-805, MCA, is amended to read:

20 **"19-20-805. Calculation of average final compensation.** (1) Except as limited by this section, average  
21 final compensation is calculated by averaging the earned compensation paid to a member in 3 consecutive fiscal  
22 years of full-time service that yields the highest average.

23 (2) The earned compensation of a member who retires under 19-20-802, 19-20-804, or 19-20-902 and  
24 has less than 3 consecutive years of full-time service during the 5 years immediately preceding the member's  
25 termination is the compensation that the member would have earned in the 3 years used to calculate average  
26 final compensation had the member's part-time service been full-time service. To determine the compensation  
27 that the member would have earned, the compensation reported must be divided by the part-time service credited  
28 to the member's account.

29 (3) (a) Subject to subsection (3)(b), if a member has transferred service from the public employees'  
30 retirement system as provided under 19-20-409 and does not have 3 consecutive years of full-time service

1 reported to the teachers' retirement system, the member's average final compensation must be calculated as  
2 follows:

3 (i) if the member's part-time service credit in the public employees' retirement system plus the member's  
4 part-time service credit in the teachers' retirement system equals 1 year in any of the fiscal years used in  
5 determining average final compensation, then the member's annual salary for that fiscal year must be the  
6 member's salary as a member of the public employees' retirement system plus the member's salary as a member  
7 of the teachers' retirement system; or

8 (ii) if the member's part-time service credit in the public employees' retirement system plus the member's  
9 part-time service credit in the teachers' retirement system equals less than 1 year in any of the fiscal years used  
10 to determine average final compensation, then the member's part-time salary as a member of the public  
11 employees' retirement system plus the member's part-time salary as a member of the teachers' retirement system  
12 must be divided by the sum of the member's part-time teachers' retirement system service credit and the  
13 member's part-time public employees' retirement system service credit.

14 (b) Compensation reported to the public employees' retirement system used to calculate average final  
15 compensation must be adjusted to exclude any compensation that would be considered termination pay under  
16 this chapter.

17 (4) (a) If the benefits excluded from earned compensation pursuant to 19-20-101~~(7)(b)~~(8)(b) have been  
18 converted by an employer to earned compensation for all members and have been continuously reported as  
19 earned compensation in a like amount for at least 5 fiscal years preceding a member's retirement, the converted  
20 benefit amounts must be included in the calculation of average final compensation.

21 (b) If benefits have been converted to earned compensation as described in subsection (4)(a) but have  
22 been reported as earned compensation for less than 5 fiscal years or if the member has been given the option  
23 to have benefits converted to earned compensation, any converted benefits reported as earned compensation  
24 in the 3 years used to calculate average final compensation may be included in the calculation of average final  
25 compensation only as termination pay under 19-20-716(1)(b)."

26

27 **Section 40.** Section 19-20-1001, MCA, is amended to read:

28 **"19-20-1001. Allowances for death of member prior to retirement.** (1) If a member dies before  
29 retirement, the member's accumulated contributions must be paid to the member's estate or to the beneficiary  
30 that the member nominated by a written application in a manner prescribed by the board and filed with the

1 retirement board prior to the member's death.

2 (2) (a) ~~in~~ Upon the death of a tier one member, in lieu of benefits provided for in subsection (1), if the  
3 deceased member qualified by reason of service for a retirement benefit, the nominated beneficiary may elect  
4 to receive a retirement allowance. The retirement allowance must be determined as prescribed in 19-20-804,  
5 without reference to 19-20-715(2), in the same manner as if the member elected option A provided for in  
6 19-20-702(2)(a).

7 (b) Upon the death of a tier two member, the benefit must be as provided in [section 50].

8 ~~(b)(3)~~ (3) The effective date of ~~the a~~ retirement allowance provided for in subsection (2)~~(a)~~ is the earlier of:

9 ~~(i)(a)~~ (i)(a) the first of the month following the date of death; or

10 ~~(ii)(b)~~ (ii)(b) the effective date of the member's retirement, as acknowledged in writing by the retirement system  
11 before the member's death.

12 ~~(c)(4)~~ (4) In the event that a beneficiary receiving payments under subsection (2)~~(a)~~ dies and payments  
13 made to the beneficiary do not equal the amount of the member's accumulated contributions at the time of the  
14 member's death, the difference between the total retirement allowance payments made and the amount of the  
15 accumulated contributions at the time of the member's death must be paid to the beneficiary's estate.

16 ~~(3)(5)~~ (5) If ~~the a~~ deceased tier one member had 5 or more years of creditable service and was an active  
17 member in the state of Montana within 1 year before the member's death, a lump-sum death benefit of \$500 is  
18 payable to the member's designated beneficiary.

19 ~~(4)(6)~~ (6) If a deceased tier one member had 5 or more years of creditable service and was an active  
20 member in the state of Montana within 1 year prior to the member's death, the sum of \$200 a month must be paid  
21 to each minor child of the deceased member until the child reaches 18 years of age.

22 ~~(5)(7)~~ (7) If the member nominated more than one beneficiary to receive payment of a benefit provided by  
23 this section upon the member's death, then:

24 (a) each beneficiary is entitled to share in that benefit; and

25 (b) if a beneficiary predeceases the member, the benefit must be divided among the surviving  
26 beneficiaries.

27 ~~(6)(8)~~ (8) If a family law order has been issued, an alternate payee's rights under the family law order must  
28 be given priority over the rights of a beneficiary."

29

30 **Section 41.** Section 19-20-1002, MCA, is amended to read:

1           **"19-20-1002. Payments upon death of retiree.** (1) In the event of the death of a retired tier one  
2 member, a death benefit of \$500 is payable to the joint annuitant or designated beneficiary.

3           (2) If the deaths of a retired tier one or tier two member and of the joint annuitant or all designated  
4 beneficiaries occur before the total retirement allowance payments made to the retired member and to the joint  
5 annuitant or all designated beneficiaries equal the amount of the member's accumulated contributions at the time  
6 of the member's retirement, the difference between the total retirement allowance paid and the amount of the  
7 accumulated contributions must be paid to the estate of the joint annuitant or to the estate of the longest-surviving  
8 beneficiary.

9           (3) If a deceased tier one member had 5 or more years of creditable service and was retired at the time  
10 of death, the sum of \$200 a month must be paid to each minor child of the deceased retiree until the child reaches  
11 18 years of age."  
12

13           NEW SECTION. Section 42. Legislative intent. The intent of the cash balance tier established  
14 pursuant to [sections 42 through 50] is to mitigate the risk of future unfunded liabilities by establishing for new  
15 members of the defined benefit plan retirement benefits that will be based on a member's actual contributions,  
16 a fixed interest credit, and a matching amount that increases according to the member's years of actual service.  
17

18           NEW SECTION. Section 43. Definitions. Unless the context requires otherwise, as used in [sections  
19 42 through 50], the following definitions apply:

20           (1) "Interest credit" means the amount of interest credited under [section 44] to a member's contributions.

21           (2) "Member" means a tier two member.

22           (3) "Vested cash balance amount" means the amount that a vested member is entitled to receive under  
23 [section 47].  
24

25           NEW SECTION. Section 44. Interest credit -- investment goals. The interest credit to be applied to  
26 a member's accumulated contributions must be 4.5%, compounded annually.

27           (2) This section may not be interpreted as encouraging or requiring lower investment goals for retirement  
28 system assets.  
29

30           NEW SECTION. Section 45. Termination of membership -- withdrawal or rollover. (1) After

1 terminating employment in all positions reportable to the retirement system, a nonvested member may terminate  
2 membership in the retirement system by electing to withdraw the member's accumulated contributions under the  
3 applicable provisions of 19-20-603.

4 (2) After terminating employment in any position reportable to the retirement system, a vested member  
5 may terminate membership in the retirement system by:

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

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

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

10  
11 **NEW SECTION. Section 46. Redeposits -- service credit.** (1) An employee hired into a position  
12 reportable to the retirement system who was previously a member and withdrew the member's accumulated  
13 contributions or vested cash balance amount may redeposit the amount withdrawn in a manner prescribed by  
14 the board.

15 (2) Upon redeposit of any previous withdrawal, the member's creditable service for the amount withdrawn  
16 will be reinstated.

17 (3) The amount redeposited and the interest credited is not eligible for the percentage match under  
18 [section 47(2)].

19  
20 **NEW SECTION. Section 47. Vested cash balance amount -- eligibility.** A member who is vested and  
21 who is at least 60 years of age has attained normal retirement age and is entitled to a vested cash balance  
22 amount that is the total of:

23 (1) the member's accumulated contributions; and

24 (2) a percentage match of the member's accumulated contributions as follows:

25 (a) 50% for members with 5 years of membership service;

26 (b) 60% for members with 6 years of membership service;

27 (c) 70% for members with 7 years of membership service;

28 (d) 80% for members with 8 years of membership service;

29 (e) 90% for members with 9 years of membership service; or

30 (f) 100% for members with 10 or more years of membership service.

1  
2           **NEW SECTION. Section 48. Retirement benefit distribution options.** (1) A vested member who is  
3 entitled to the vested cash balance amount under [section 47] may elect to receive a retirement benefit that is the  
4 actuarial equivalent of the member's vested cash balance amount payable as an annuity for the life of the  
5 member or payable under one of the options provided for in 19-20-702.

6           (2) To receive a retirement benefit under this section, the member must have terminated employment  
7 in a position reportable to the retirement system.

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

9  
10           **NEW SECTION. Section 49. Reemployment after retirement.** (1) A member who is reemployed in  
11 a covered position after receiving at least one benefit payment must continue to receive the member's retirement  
12 benefit.

13           (2) The member must be considered a new member with respect to the reemployment, is not vested until  
14 the member completes 5 years of service after reemployment, and may accrue a second retirement benefit based  
15 only on the member's accumulated contributions after reemployment, subject to all applicable provisions of this  
16 chapter.

17  
18           **NEW SECTION. Section 50. Death and disability benefits -- rulemaking.** (1) (a) The designated  
19 beneficiary of a nonvested member who dies before retirement is entitled to receive a lump-sum payment of the  
20 member's accumulated contributions.

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

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

25           (b) A vested member who becomes disabled is entitled to receive a lump-sum payment of the member's  
26 vested cash balance amount or a distribution of the member's vested cash balance amount payable as provided  
27 in [section 48].

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

30

1           NEW SECTION. **Section 51. Boards to seek commissioner's ruling or determination --**  
2 **certification that plan is effective.** (1) Immediately following passage and approval of [this act]:

3           (a) the public employees' retirement board shall request in writing a private letter ruling from the  
4 commissioner of the internal revenue service as to whether implementation of the provisions of [this act] will result  
5 in the public employees' retirement system losing "qualified plan" status pursuant to 26 U.S.C. 401(a);

6           (b) the teachers' retirement board shall request in writing a private letter ruling from the commissioner  
7 of the internal revenue service as to whether implementation of the provisions of [this act] will result in the  
8 teachers' retirement system losing "qualified plan" status pursuant to 26 U.S.C. 401(a).

9           (2) When a ruling requested pursuant to subsection (1) is received, the respective retirement boards  
10 shall provide to the governor, the secretary of state, and the code commissioner a copy of the ruling.

11  
12           NEW SECTION. **Section 52. Codification instruction.** (1) [Sections 20 through 28] are intended to  
13 be codified as an integral part of Title 19, chapter 3, and the provisions of Title 19, chapter 3, apply to [sections  
14 20 through 28].

15           (2) (a) [Section 32] is intended to be codified as an integral part of Title 19, chapter 20, part 4, and the  
16 provisions of Title 19, chapter 20, part 4, apply to [section 32].

17           (b) [Section 32] is intended to be codified as an integral part of Title 19, chapter 20, part 8, and the  
18 provisions of Title 19, chapter 20, part 8, apply to [section 32].

19           (c) [Section 32] is intended to be codified as an integral part of Title 19, chapter 20, part 9, and the  
20 provisions of Title 19, chapter 20, part 9, apply to [section 32].

21           (3) [Sections 42 through 50] are intended to be codified as an integral part of Title 19, chapter 20, and  
22 the provisions of Title 19, chapter 20, apply to [sections 42 through 50].

23  
24           NEW SECTION. **Section 53. Saving clause.** [This act] does not affect rights and duties that matured,  
25 penalties that were incurred, or proceedings that were begun before [the effective date of this section].

26  
27           NEW SECTION. **Section 54. Severability.** If a part of [this act] is invalid, all valid parts that are  
28 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
29 the part remains in effect in all valid applications that are severable from the invalid applications.

30

