

SENATE BILL NO. 348

INTRODUCED BY T. MCGILLVRAY, G. HERTZ

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PENSION LAWS; REMOVING THE GUARANTEED ANNUAL BENEFIT ADJUSTMENT FOR NEW EMPLOYEES IN ALL DEFINED BENEFIT RETIREMENT SYSTEMS; PROVIDING A DEFINITION; AMENDING SECTIONS 19-3-1605, 19-5-901, 19-6-712, 19-6-1102, 19-7-711, 19-7-1102, 19-8-1105, 19-8-1202, 19-9-1009, 19-9-1303, 19-13-1010, 19-13-1102, 19-20-101, 19-20-602, 19-20-603, 19-20-608, 19-20-719, 19-20-801, 19-20-802, 19-20-804, 19-20-805, AND 19-20-901, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 19-3-1605, MCA, is amended to read:

**"19-3-1605. Guaranteed annual benefit adjustment.** (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by the applicable percentage provided in subsection (4).

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than an annualized increase of the applicable percentage provided in subsection (4), then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of the applicable percentage in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than an annualized increase of the applicable percentage provided in subsection (4), then the benefit increase provided under this section must be 0%.

(c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the original payee that occurred since the preceding January, the new recipient's monthly benefit must be increased to the applicable percentage provided in subsection (4)(b) more than the amount that the contingent

1 annuitant would have received had the contingent annuitant received a benefit during the preceding January.

2 (3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the  
3 minimum annual benefit adjustment provided for in this section if the benefit's commencement date is at least  
4 12 months prior to January 1 of the year in which the adjustment is to be made.

5 (4) (a) The applicable percentage increase under subsection (1) is 3% if the member was hired or  
6 assumed office:

7 (i) before July 1, 2007; or

8 (ii) on or after July 1, 2007, and before July 1, 2013, and the benefit recipient is a member of a  
9 retirement system provided for in this title, and the guaranteed annual benefit adjustment provision for that  
10 member under that system is a 3% benefit increase.

11 (b) The applicable percentage increase under subsection (1) is 1.5% if the member was hired or  
12 assumed office on or after July 1, 2007, and before June 30, 2013, and the benefit recipient is not otherwise  
13 covered under subsection (4)(a)(ii).

14 (c) The applicable percentage increase under subsection (1) is 1.5% if the member was hired or  
15 assumed office on or after July 1, 2013, subject to reduction as provided in subsection (5).

16 (d) A member who was hired or assumed office on or after July 1, 2023, is not eligible for the  
17 guaranteed annual benefit adjustment.

18 (5) (a) Except as provided in subsection (5)(b), if the most recent actuarial valuation of the  
19 retirement system shows that retirement system liabilities are less than 90% funded, the applicable percentage  
20 increase in subsection (4)(c) must be reduced by 0.1% for each 2% below that 90% funding level.

21 (b) If the amortization period is 40 years or greater, the applicable percentage increase in  
22 subsection (4)(c) must be reduced to 0% and the retirement allowance may not be increased.

23 (6) The board shall adopt rules to administer the provisions of this section."  
24

25 **Section 2.** Section 19-5-901, MCA, is amended to read:

26 **"19-5-901. Guaranteed annual benefit adjustment.** (1) Subject to subsection (2), on January 1 of  
27 each year, the permanent monthly benefit payable during the preceding January to each recipient who is  
28 eligible under subsection (3) must be increased by 3%.

1           (2)     (a) If a recipient's benefit payable during the preceding January has been increased by one or  
 2 more adjustments not provided for in this section and the adjustments amount to less than a 3% annualized  
 3 increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized  
 4 increase of 3% in the benefit paid since the preceding January.

5           (b)     If a recipient's benefit payable during the preceding January has been increased by one or  
 6 more adjustments not provided for in this section and the increases amount to more than a 3% annualized  
 7 increase, then the benefit increase provided under this section must be 0%.

8           (c)     If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of  
 9 the original payee that occurred since the preceding January, the new recipient's monthly benefit must be  
 10 increased to 3% more than the amount that the contingent annuitant would have received had the contingent  
 11 annuitant received a benefit during the preceding January.

12           (3)     Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the  
 13 minimum annual benefit adjustment provided for in this section if:

14           (a)     the benefit's commencement date is at least 12 months prior to January 1 of the year in which  
 15 the adjustment is to be made; and

16           (b)     the member or benefit recipient either:

17           (i)     first became an active member on or after July 1, 1997; or

18           (ii)    filed a voluntary, irrevocable election to be covered under this section. The election must be  
 19 filed with the board prior to January 1, 1998.

20           (4)     A member hired on or after July 1, 2023, is not eligible for the guaranteed annual benefit  
 21 adjustment.

22           ~~(4)~~(5) The board shall adopt rules to administer the provisions of this section."  
 23

24           **Section 3.** Section 19-6-712, MCA, is amended to read:

25           **"19-6-712. Guaranteed annual benefit adjustment for employees hired after July 1, 2013.** (1)

26 Subject to subsection (2), for employees hired on or after July 1, 2013, on January 1 of each year, the  
 27 permanent monthly benefit payable during the preceding January to each recipient who is eligible under  
 28 subsection (3) must be increased by 1.5%.

1           (2)     (a) If the recipient's benefit payable during the preceding January has been increased by one  
 2 or more adjustments not provided for in this section and the adjustments amount to less than a 1.5%  
 3 annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total  
 4 annualized increase of 1.5% in the benefit paid since the preceding January.

5           (b)     If a recipient's benefit payable during the preceding January has been increased by one or  
 6 more adjustments not provided for in this section and the adjustments amount to more than a 1.5% annualized  
 7 increase, then the benefit increase provided for under this section must be 0%.

8           (3)     Except as provided for in subsection (2)(b), a benefit recipient is eligible for and must receive  
 9 the minimum annual benefit adjustment provided for in this section if:

10          (a)     the benefit's commencement date is at least 36 months prior to January 1 of the year in which  
 11 the adjustment is to be made; and

12          (b)     the member first became an active member on or after July 1, 2013.

13          (4)     A member hired on or after July 1, 2023, is not eligible for the guaranteed annual benefit  
 14 adjustment or the minimum monthly benefit adjustment under 19-6-707.

15          ~~(4)~~(5) The board shall adopt rules to administer the provisions of this section."

16

17           **Section 4.** Section 19-6-1102, MCA, is amended to read:

18           **"19-6-1102. Refunds and benefits for reemployed retired members.** (1) A retired member who  
 19 returns to active service pursuant to 19-6-1101(1) and accrues less than 5 years of service credit before again  
 20 terminating service:

21           (a)     may not be awarded service credit for the period of reemployment;

22           (b)     must, upon termination of service and pursuant to 19-2-602, receive a refund of the member's  
 23 accumulated contributions associated with the service credit accrued upon return to active service; and

24           (c)     starting the first month following termination of service, must receive the same retirement  
 25 benefit amount paid to the member in the month immediately prior to returning to active service.

26           (2)     A retired member who returns to active service pursuant to 19-6-1101(1) and accrues at least 5  
 27 years of service credit before again terminating service must receive, starting the first month following  
 28 termination of service:

- 1 (a) the same retirement benefit amount paid to the member in the month immediately prior to  
 2 returning to active service; and
- 3 (b) a second retirement benefit calculated for the period of reemployment under 19-6-502 and the  
 4 laws in effect as of the member's rehire date.
- 5 (3) Postretirement benefit adjustments will start to accrue as follows:
- 6 (a) for benefits under subsections (1)(c) and (2)(a), an eligible member is entitled to:
- 7 (i) a minimum monthly benefit increase pursuant to 19-6-707 when, immediately following the  
 8 member's termination of service or retirement, a minimum monthly benefit increase is granted to all eligible  
 9 covered retirees; or
- 10 (ii) a guaranteed annual benefit adjustment in January based on the member's hire date pursuant  
 11 to 19-6-710, 19-6-711, or 19-6-712;
- 12 (b) for benefits under subsection (2)(b), an eligible member is entitled to a guaranteed annual  
 13 benefit adjustment under 19-6-712 in January after the member has received the second retirement benefit for  
 14 at least 12 months.
- 15 (4) A retired member who returns to active service pursuant to 19-6-1101(1):
- 16 (a) is not eligible for a disability retirement; and
- 17 (b) may not accrue the postretirement benefit adjustments provided for in part 7 of this chapter  
 18 during the member's term of reemployment."

19

20 **Section 5.** Section 19-7-711, MCA, is amended to read:

21 **"19-7-711. Guaranteed annual benefit adjustment.** (1) Subject to subsection (2), on January 1 of  
 22 each year, the permanent monthly benefit payable during the preceding January to each recipient who is  
 23 eligible under subsection (3) must be increased by the applicable percentage provided in subsection (4).

24 (2) (a) If a recipient's benefit payable during the preceding January has been increased by one or  
 25 more adjustments not provided for in this section and the adjustments amount to less than an annualized  
 26 increase of the applicable percentage provided in subsection (4), then the recipient's benefit must be adjusted  
 27 by an amount that will provide a total annualized increase of the applicable percentage in the benefit paid since  
 28 the preceding January.

1 (b) If a recipient's benefit payable during the preceding January has been increased by one or  
2 more adjustments not provided for in this section and the increases amount to more than an annualized  
3 increase of the applicable percentage provided in subsection (4), then the benefit increase provided under this  
4 section must be 0%.

5 (c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of  
6 the original payee that occurred since the preceding January, the new recipient's monthly benefit must be  
7 increased to the applicable percentage provided in subsection (5) more than the amount that the contingent  
8 annuitant would have received had the contingent annuitant received a benefit during the preceding January.

9 (3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the  
10 minimum annual benefit adjustment provided for in this section if the benefit's commencement date is at least  
11 12 months prior to January 1 of the year in which the adjustment is to be made.

12 (4) (a) The applicable percentage is 3% for benefit recipients hired or assuming office:

13 (i) before July 1, 2007; or

14 (ii) on or after July 1, 2007, if the benefit recipient is an existing member of a benefit plan for which  
15 the applicable percentage is 3%.

16 (b) Except as provided in subsection (4)(a)(ii), the applicable percentage is 1.5% for benefit  
17 recipients hired or assuming office on or after July 1, 2007.

18 (c) A member hired on or after July 1, 2023, is not eligible for the guaranteed annual benefit  
19 adjustment.

20 (5) (a) The applicable percentage rate for a contingent annuitant described in subsection (2)(c) is  
21 3% if the original payee:

22 (i) was hired or assumed office before July 1, 2007; or

23 (ii) was an existing member of a benefit plan for which the applicable percentage is 3%.

24 (b) Except as provided in subsection (5)(a)(ii), the applicable percentage rate for a contingent  
25 annuitant described in subsection (2)(c) is 1.5% if the original payee was hired or assumed office on or after  
26 July 1, 2007.

27 (6) The board shall adopt rules to administer the provisions of this section."  
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1           **Section 6.** Section 19-7-1102, MCA, is amended to read:

2           **"19-7-1102. Refunds and benefits for reemployed retired members.** (1) A retired member who  
3 returns to active service pursuant to 19-7-1101(1) and accrues less than 5 years of service credit before again  
4 terminating service:

5           (a)     may not be awarded service credit for the period of reemployment;

6           (b)     must, upon termination of service and pursuant to 19-2-602, receive a refund of the member's  
7 accumulated contributions associated with the service credit accrued upon returning to active service; and

8           (c)     starting the first month following termination of service, must receive the same retirement  
9 benefit amount paid to the member in the month immediately prior to returning to active service.

10          (2)     A retired member who returns to active service pursuant to 19-7-1101(1) and accrues at least 5  
11 years of service credit before again terminating service must receive, starting the first month following  
12 termination of service:

13          (a)     the same retirement benefit amount paid to the member in the month immediately prior to  
14 returning to active service; and

15          (b)     a second retirement benefit calculated for the period of reemployment under 19-7-503 and the  
16 laws in effect as of the member's rehire date.

17          (3)     Postretirement benefit adjustments will start to accrue as follows:

18          (a)     for benefits under subsections (1)(c) and (2)(a), an eligible member is entitled to a guaranteed  
19 annual benefit adjustment pursuant to 19-7-711 in January based on the member's hire date immediately  
20 following the member's termination of service or retirement, whichever is applicable;

21          (b)     for benefits under subsection (2)(b), an eligible member is entitled to a guaranteed annual  
22 benefit adjustment pursuant to 19-7-711 in January after the member has received the second retirement  
23 benefit for at least 12 months.

24          (4)     A retired member who returns to active service pursuant to 19-7-1101(1):

25          (a)     is not eligible for a disability retirement; and

26          (b)     may not accrue the postretirement benefit adjustments provided in part 7 of this chapter during  
27 the member's term of reemployment."  
28

1           **Section 7.** Section 19-8-1105, MCA, is amended to read:

2           **"19-8-1105. Guaranteed annual benefit adjustment.** (1) Subject to subsection (2), on January 1 of  
3 each year, the permanent monthly benefit payable during the preceding January to each recipient who is  
4 eligible under subsection (3) must be increased by the applicable percentage provided in subsection (4).

5           (2)     (a) If a recipient's benefit payable during the preceding January has been increased by one or  
6 more adjustments not provided for in this section and the adjustments amount to less than an annualized  
7 increase of the applicable percentage provided in subsection (4), then the recipient's benefit must be adjusted  
8 by an amount that will provide a total annualized increase of the applicable percentage in the benefit paid since  
9 the preceding January.

10           (b)     If a recipient's benefit payable during the preceding January has been increased by one or  
11 more adjustments not provided for in this section and the increases amount to more than an annualized  
12 increase of the applicable percentage provided in subsection (4), then the benefit increase provided under this  
13 section must be 0%.

14           (c)     If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of  
15 the original payee that occurred since the preceding January, the new recipient's monthly benefit must be  
16 increased to the applicable percentage provided in subsection (5) more than the amount that the contingent  
17 annuitant would have received had the contingent annuitant received a benefit during the preceding January.

18           (3)     Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the  
19 minimum annual benefit adjustment provided for in this section if the benefit's commencement date is at least  
20 12 months prior to January 1 of the year in which the adjustment is to be made.

21           (4)     (a) The applicable percentage is 3% for benefit recipients hired or assuming office:

22                   (i)     before July 1, 2007; or

23                   (ii)    on or after July 1, 2007, if the benefit recipient is an existing member of a benefit plan for which  
24 the applicable percentage is 3%.

25           (b)     Except as provided in subsection (4)(a)(ii), the applicable percentage is 1.5% for benefit  
26 recipients hired or assuming office on or after July 1, 2007.

27           (c)     A member hired on or after July 1, 2023, is not eligible for the guaranteed annual benefit  
28 adjustment.



1 (5) (a) The applicable percentage rate for a contingent annuitant described in subsection (2)(c) is  
2 3% if the original payee:

3 (i) was hired or assumed office before July 1, 2007; or

4 (ii) was an existing member of a benefit plan for which the applicable percentage is 3%.

5 (b) Except as provided in subsection (5)(a)(ii), the applicable percentage rate for a contingent  
6 annuitant described in subsection (2)(c) is 1.5% if the original payee was hired or assumed office on or after  
7 July 1, 2007.

8 (6) The board shall adopt rules to administer the provisions of this section."  
9

10 **Section 8.** Section 19-8-1202, MCA, is amended to read:

11 **"19-8-1202. Refunds and benefits for reemployed retired members.** (1) A retired member who  
12 returns to active service pursuant to 19-8-1201(1) and accrues less than 5 years of service credit before again  
13 terminating service:

14 (a) may not be awarded service credit for the period of reemployment;

15 (b) must, upon termination of service and pursuant to 19-2-602, receive a refund of the member's  
16 accumulated contributions associated with the service credit accrued upon return to active service; and

17 (c) starting the first month following termination of service, must receive the same retirement  
18 benefit amount paid to the member in the month immediately prior to returning to active service.

19 (2) A retired member who returns to active service pursuant to 19-8-1201(1) and accrues at least 5  
20 years of service credit before again terminating service must receive, starting the first month following  
21 termination of service:

22 (a) the same retirement benefit amount paid to the member in the month immediately prior to  
23 returning to active service; and

24 (b) a second retirement benefit calculated for the period of reemployment under 19-8-603 and the  
25 laws in effect as of the member's rehire date.

26 (3) Postretirement benefit adjustments will start to accrue as follows:

27 (a) for benefits under subsections (1)(c) and (2)(a), an eligible member is entitled to a guaranteed  
28 annual benefit adjustment based on the member's hire date pursuant to 19-8-1105 in January immediately

1 following the member's termination of service or retirement, whichever is applicable;

2 (b) for benefits under subsection (2)(b), an eligible member is entitled to a guaranteed annual  
3 benefit adjustment pursuant to 19-8-1105 in January after the member has received the second retirement  
4 benefit for at least 12 months.

5 (4) A retired member who returns to active service pursuant to 19-8-1201(1) following retirement:

6 (a) is not eligible for a disability retirement; and

7 (b) may not accrue the postretirement benefit adjustments provided in part 11 of this chapter  
8 during the member's term of reemployment."

9

10 **Section 9.** Section 19-9-1009, MCA, is amended to read:

11 **"19-9-1009. Guaranteed annual benefit adjustment.** (1) Subject to subsection (2), on January 1 of  
12 each year, the permanent monthly benefit payable during the preceding January to each recipient who is  
13 eligible under subsection (3) must be increased by 3%.

14 (2) (a) If a recipient's benefit payable during the preceding January has been increased by one or  
15 more adjustments not provided for in this section and the adjustments amount to less than a 3% annualized  
16 increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized  
17 increase of 3% in the benefit paid since the preceding January.

18 (b) If a recipient's benefit payable during the preceding January has been increased by one or  
19 more adjustments not provided for in this section and the increases amount to more than a 3% annualized  
20 increase, then the benefit increase provided under this section must be 0%.

21 (3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the  
22 minimum annual benefit adjustment provided for in this section if:

23 (a) the benefit's commencement date is at least 12 months prior to January 1 of the year in which  
24 the adjustment is to be made; and

25 (b) the member either:

26 (i) first became an active member on or after July 1, 1997; or

27 (ii) filed a voluntary, irrevocable election to be covered under this section. The election must be  
28 filed with the board prior to January 1, 1998, and requires an active member to pay an increased contribution

1 rate from July 1, 1997, forward. A retired member or the member's survivor who is receiving a monthly benefit  
2 before July 1, 1997, shall also file the voluntary, irrevocable election no later than January 1, 1998, to be  
3 covered under this section.

4 (4) A member hired on or after July 1, 2023, is not eligible for the guaranteed annual benefit  
5 adjustment or the minimum monthly benefit under 19-9-1007.

6 ~~(4)~~(5) The board shall adopt rules to administer the provisions of this section."  
7

8 **Section 10.** Section 19-9-1303, MCA, is amended to read:

9 **"19-9-1303. Refunds and benefits for reemployed retired members.** (1) A retired member who  
10 returns to active service pursuant to 19-9-1302(2) and accrues less than 5 years of service credit before again  
11 terminating service:

12 (a) may not be awarded service credit for the period of reemployment;

13 (b) must, upon termination of service and pursuant to 19-2-602, receive a refund of the member's  
14 accumulated contributions associated with the service credit accrued upon returning to active service; and

15 (c) starting the first month following termination of service, must receive the same retirement  
16 benefit amount paid to the member in the month immediately prior to returning to active service.

17 (2) A retired member who returns to active service pursuant to 19-9-1302(2) and accrues at least 5  
18 years of service credit before again terminating service must receive, starting the first month following  
19 termination of service:

20 (a) the same retirement benefit amount paid to the member in the month immediately prior to  
21 returning to active service; and

22 (b) a second retirement benefit calculated for the period of reemployment under 19-9-801 and the  
23 laws in effect as of the member's rehire date.

24 (3) Postretirement benefit adjustments will start to accrue as follows:

25 (a) for benefits under subsections (1)(c) and (2)(a), an eligible member is entitled to:

26 (i) a minimum monthly adjustment pursuant to 19-9-1007 when, immediately following the  
27 member's termination of service or retirement, whichever is applicable, a minimum monthly adjustment is  
28 granted to all eligible covered retirees; or

1           (ii)     a guaranteed annual benefit adjustment based on the member's hire date pursuant to 19-9-  
 2 1009, 19-9-1010, or 19-9-1013 in January immediately following the member's termination of service or  
 3 retirement, whichever is applicable;

4           (b)     for benefits under subsection (2)(b), an eligible member is entitled to a guaranteed annual  
 5 benefit adjustment pursuant to 19-9-1013 in January after the member has received the second retirement  
 6 benefit for at least 12 months.

7           (4)     A retired member who returns to active service pursuant to 19-9-1302(2) following retirement:

8           (a)     is not eligible for a disability retirement; and

9           (b)     may not accrue the postretirement benefit adjustments provided for in part 10 of this chapter  
 10 during the member's term of reemployment."

11

12           **Section 11.** Section 19-13-1010, MCA, is amended to read:

13           **"19-13-1010. Guaranteed annual benefit adjustment.** (1) Subject to subsection (2), on January 1 of  
 14 each year, the permanent monthly benefit payable during the preceding January to each recipient who is  
 15 eligible under subsection (3) must be increased by 3%.

16           (2)     (a) If a recipient's benefit payable during the preceding January has been increased by one or  
 17 more adjustments not provided for in this section and the adjustments amount to less than a 3% annualized  
 18 increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized  
 19 increase of 3% in the benefit paid since the preceding January.

20           (b)     If a recipient's benefit payable during the preceding January has been increased by one or  
 21 more adjustments not provided for in this section and the increases amount to more than a 3% annualized  
 22 increase, then the benefit increase provided under this section must be 0%.

23           (3)     Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the  
 24 minimum annual benefit adjustment provided for in this section if:

25           (a)     the benefit's commencement date is at least 12 months prior to January 1 of the year in which  
 26 the adjustment is to be made; and

27           (b)     the member either:

28           (i)     first became an active member on or after July 1, 1997; or

1 (ii) filed a voluntary, irrevocable election to be covered under this section. The election must be  
 2 filed with the board prior to January 1, 1998, and requires an active member to pay an increased contribution  
 3 rate from July 1, 1997, forward. A retired member or the member's survivor who is receiving a monthly benefit  
 4 before July 1, 1997, shall also file the voluntary, irrevocable election no later than January 1, 1998, to be  
 5 covered under this section.

6 (4) A member hired on or after July 1, 2023, is not eligible for the guaranteed annual benefit  
 7 adjustment or the minimum monthly benefit adjustment under 19-13-1007.

8 ~~(4)(5)~~ The board shall adopt rules to administer the provisions of this section."  
 9

10 **Section 12.** Section 19-13-1102, MCA, is amended to read:

11 **"19-13-1102. Refunds and benefits for reemployed retired members.** (1) A retired member who  
 12 returns to active service pursuant to 19-13-1101(2) and accrues less than 5 years of service credit before again  
 13 terminating service:

- 14 (a) may not be awarded service credit for the period of reemployment;
- 15 (b) must, upon termination of service and pursuant to 19-2-602, receive a refund of the member's  
 16 accumulated contributions associated with the service credit accrued upon returning to active service; and
- 17 (c) starting the first month following termination of service, must receive the same retirement  
 18 benefit amount paid to the member in the month immediately prior to returning to active service.

19 (2) A retired member who returns to active service pursuant to 19-13-1101(2) and accrues at least  
 20 5 years of service credit before again terminating service must receive, starting the first month following  
 21 termination of service:

- 22 (a) the same retirement benefit amount paid to the member in the month immediately prior to  
 23 returning to active service; and
- 24 (b) a second retirement benefit calculated for the period of reemployment under 19-13-704 and the  
 25 laws in effect as of the member's rehire date.
- 26 (3) Postretirement benefit adjustments will start to accrue as follows:
- 27 (a) for benefits under subsections (1)(c) and (2)(a), an eligible member is entitled to:
- 28 (i) a minimum benefit adjustment pursuant to 19-13-1007 when, immediately following the

1 member's termination of service or retirement, whichever is applicable, a minimum benefit adjustment is  
2 granted to all eligible covered retirees; or

3 (ii) a guaranteed annual benefit adjustment based on the member's hire date pursuant to 19-13-  
4 1010 or 19-13-1011 in January immediately following the member's termination of service or retirement,  
5 whichever is applicable;

6 (b) for benefits under subsection (2)(b), an eligible member is entitled to a guaranteed annual  
7 benefit adjustment pursuant to 19-13-1010 or 19-13-1011 in January after the member has received the second  
8 retirement benefit for at least 12 months.

9 (4) A retired member who returns to active service pursuant to 19-13-1101(2) following retirement:

10 (a) is not eligible for a disability retirement; and

11 (b) may not accrue the postretirement benefit adjustments provided for in part 10 of this chapter  
12 during the member's term of reemployment."

13

14 **Section 13.** Section 19-20-101, MCA, is amended to read:

15 **"19-20-101. Definitions.** As used in this chapter, unless the context clearly indicates otherwise, the  
16 following definitions apply:

17 (1) "Accumulated contributions" or "account balance" means the sum of all the amounts deducted  
18 from the compensation of a member or paid by a member and credited to the member's individual account in  
19 the annuity savings account, together with interest, minus any amount deducted for correction of errors and the  
20 aggregate amount of all retirement benefit payments and refunds of accumulated contributions paid to or on  
21 behalf of the member.

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

24 (3) "Alternate beneficiary" means an estate or an individual not designated as a beneficiary but  
25 that becomes a beneficiary pursuant to 19-20-1005.

26 (4) "Average final compensation" means a member's highest average earned compensation,  
27 determined pursuant to 19-20-805, on which all required contributions have been made.

28 (5) "Beneficiary designation" means the process that the retirement system prescribes pursuant to

1 this chapter by which a person authorized by law designates one or more beneficiaries.

2 (6) "Beneficiary designation record" means either the hard copy form or electronic record  
3 prescribed by the retirement system and used by a person authorized by law to designate one or more  
4 beneficiaries.

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

7 (8) "Contingent beneficiary" means a designated beneficiary with the right to receive any benefit or  
8 refund of accumulated contributions payable if there is no eligible primary beneficiary.

9 (9) "Creditable service" is that service defined by 19-20-401.

10 (10) "Date of termination" or "termination date" means the last date on which a member performed  
11 service in a position reportable to the retirement system.

12 (11) "Designated beneficiary" means one or more primary beneficiaries or contingent beneficiaries  
13 designated pursuant to 19-20-1006.

14 (12) (a) "Earned compensation" means, except as limited by subsections (12)(b) and (12)(c) or by  
15 19-20-715, remuneration paid for the service of a member out of funds controlled by an employer before any  
16 pretax deductions allowed under the Internal Revenue Code are deducted.

17 (b) Earned compensation does not include:

18 (i) direct employer premium payments on behalf of members for medical, pharmaceutical,  
19 disability, life, vision, dental, or any other insurance;

20 (ii) any direct employer payment or reimbursement for:

21 (A) professional membership dues;

22 (B) maintenance;

23 (C) housing;

24 (D) day care;

25 (E) automobile, travel, lodging, or entertaining expenses; or

26 (F) any similar form of maintenance, allowance, or expenses;

27 (iii) the imputed value of health, life, or disability insurance or any other fringe benefits;

28 (iv) any noncash benefit provided by an employer to or on behalf of a member;

- 1 (v) termination pay unless included pursuant to 19-20-716;
- 2 (vi) compensation paid to a member from a plan for the deferral of compensation under section  
3 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f);
- 4 (vii) payment for sick, annual, or other types of leave paid to a member prior to termination from  
5 employment or accrued in excess of that normally allowed;
- 6 (viii) incentive or bonus payments paid to a member that are not part of a series of annual  
7 payments;
- 8 (ix) a professional stipend paid pursuant to 20-4-134;
- 9 (x) any similar payment or reimbursement made to or on behalf of a member by an employer;
- 10 (c) (i) Adding a direct employer-paid or noncash benefit to an employee's contract or subtracting  
11 the same or a similar amount as a pretax deduction is considered a fringe benefit and not earned  
12 compensation.
- 13 (ii) Cash paid in lieu of any direct employer-paid or noncash benefit that has previously been or  
14 would be paid or provided to or on behalf of the employee at the employee's request or direction is considered  
15 a fringe benefit and not earned compensation.
- 16 (13) "Employer" means:
- 17 (a) the state of Montana;
- 18 (b) a public school district, as provided in 20-6-101 and 20-6-701;
- 19 (c) the office of public instruction;
- 20 (d) the board of public education;
- 21 (e) an education cooperative;
- 22 (f) the Montana school for the deaf and blind, as described in 20-8-101;
- 23 (g) the Montana youth challenge program, as defined in 10-1-101;
- 24 (h) a correctional facility, as defined in 41-5-103;
- 25 (i) the Montana university system;
- 26 (j) a community college; or
- 27 (k) any other agency, political subdivision, or instrumentality of the state that employs a person  
28 who is designated a member of the retirement system pursuant to 19-20-302.



1           (14) "Extra duty service" means service in an educational services capacity that is not compensated  
2 as part of the normally assigned duties and functions of a school district teacher, administrator, or other  
3 employee but is regularly assigned to one or more school district teachers, administrators, or other employees  
4 as part of the regular operation of the school district's curricular and extracurricular programs.

5           (15) "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  
9 board and reported to the office of public instruction as required by 20-1-302. The standard for full-time service  
10 for a school district operating under an alternative school calendar must be applied uniformly to all employees  
11 of the school district required to be reported to the retirement system.

12           (16) "Individual" means a human being.

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

14           (18) "Joint annuitant" means the one person that a retired member who has elected an optional  
15 allowance under 19-20-702(2), (4), or (5) has designated to receive a retirement allowance upon the death of  
16 the retired member.

17           (19) "Member" means a person who has an individual account in the annuity savings account.

18 Unless otherwise specified, "member" refers to a tier one member or a tier two member.

19           (20) "Normal form" or "normal form benefit" means a monthly retirement benefit payable only for the  
20 lifetime of the retired member.

21           (21) "Normal retirement age" means an age no earlier than 60 years of age.

22           (22) "Part-time service" means service that is not full-time service. Part-time service must be  
23 credited in the proportion that the actual time worked compares to full-time service.

24           (23) "Position reportable to the retirement system" means a position in which an individual performs  
25 duties that would entitle the person to active membership in the retirement system under the provisions of 19-  
26 20-302.

27           (24) "Primary beneficiary" means a designated beneficiary with a first right to receive any benefit or  
28 refund of accumulated contributions payable upon the death of the individual authorized by law to make the

1 designation.

2 (25) "Regular interest" means interest at a rate set by the retirement board in accordance with 19-  
3 20-501(2).

4 (26) "Retired", "retired member", or "retiree" means a person who is considered in retired member  
5 status under the provisions of 19-20-810.

6 (27) "Retirement allowance" or "retirement benefit" means a monthly payment due to a retired  
7 member who has qualified for service or disability retirement or due to a joint annuitant or beneficiary.

8 (28) "Retirement board" or "board" means the retirement system's governing board provided for in  
9 2-15-1010.

10 (29) "Retirement system", "system", or "plan" means the teachers' retirement system of the state of  
11 Montana provided for in 19-20-102.

12 (30) "Service" means the performance of duties that would entitle the person to active membership  
13 in the retirement system under the provisions of 19-20-302.

14 (31) "Termination" or "terminate" means that the employment relationship between the member and  
15 the member's employer has been terminated as required in 19-20-810.

16 (32) (a) "Termination pay" means any form of bona fide vacation leave, sick leave, severance pay,  
17 amounts provided under a window or early retirement incentive plan, or other payments contingent on the  
18 employee terminating employment.

19 (b) Termination pay does not include:

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

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

24 (33) "Tier one member" means a person who became a member before July 1, 2013, and who has  
25 not withdrawn the member's account balance.

26 (34) ~~"Tier two member" means a person who became a member on or after July 1, 2013, or who,~~  
27 ~~after withdrawing the member's account balance, became a member again after July 1, 2013.~~ "Tier three  
28 member" means a person who became a member on or after July 1, 2023, or who, after withdrawing the

1 member's account balance, became a member again after July 1, 2023.

2 (35) "Tier two member" means a person who became a member on or after July 1, 2013, or who,  
3 after withdrawing the member's account balance, became a member again after July 1, 2013.

4 ~~(35)~~(36) "Vested" means that a member has been credited with at least 5 full years of membership  
5 service upon which contributions have been made and has a right to a future retirement benefit.

6 ~~(36)~~(37) "Written application" or "written election" means a written instrument, required by statute or  
7 the rules of the board, properly signed and filed with the board, that contains all the required information,  
8 including documentation that the board considers necessary."

9

10 **Section 14.** Section 19-20-602, MCA, is amended to read:

11 **"19-20-602. Annuity savings account -- member's contribution.** (1) The annuity savings account is  
12 an account in which the contributions for the members to provide for their retirement allowance or benefits must  
13 be accumulated in individual accounts for each member.

14 (2) (a) The normal contribution rate of each tier one member is 7.15% of the member's earned  
15 compensation.

16 (b) The normal contribution rate of each tier two and tier three member is 8.15% of the member's  
17 earned compensation.

18 (3) Contributions under 19-20-608 and this section to the annuity savings account must be made  
19 in the following manner:

20 (a) Each employer, pursuant to section 414(h)(2) of the Internal Revenue Code:

21 (i) shall pick up and pay the contributions that would be payable by the member under this  
22 subsection (3) for service rendered after June 30, 1985;

23 (ii) shall pick up and pay the contributions that would be paid in the manner provided in 19-20-716;  
24 and

25 (iii) may pick up and pay the contributions that would be payable by the member pursuant to 19-  
26 20-415.

27 (b) The member's contributions picked up by the employer must be designated for all purposes of  
28 the retirement system as the member's contributions, except for the determination of a tax upon a distribution

1 from the retirement system. These contributions must become part of the member's accumulated contributions  
2 but must be accounted for separately from those previously accumulated.

3 (c) The member's contributions picked up by the employer must be payable from the same source  
4 as is used to pay compensation to the member and must be included in the member's earned compensation as  
5 defined in 19-20-101. The employer shall deduct from the member's compensation an amount equal to the  
6 amount of the member's contributions picked up by the employer and remit the total of the contributions to the  
7 retirement board.

8 (d) The deductions must be made notwithstanding that the minimum compensation provided by  
9 law for a member may be reduced by the deductions. Each member is considered to consent to the deductions  
10 prescribed by this section, and payment of salary or compensation less the deductions is a complete discharge  
11 of all claims for the services rendered by the member during the period covered by the payment, except as to  
12 the benefits provided by the retirement system.

13 (4) The accumulated contributions of a member withdrawn by the member or paid to the member's  
14 estate or to the member's designated beneficiary in event of the member's death must be paid from the annuity  
15 savings account. Upon the retirement of a member, the member's accumulated contributions must be  
16 transferred from the annuity savings account to the pension accumulation account."  
17

18 **Section 15.** Section 19-20-603, MCA, is amended to read:

19 **"19-20-603. Withdrawal from membership -- refund of accumulated contributions -- options. (1)**

20 (a) An inactive member may apply at any time to withdraw from membership in the retirement system and  
21 receive a refund of the member's accumulated contributions.

22 (b) An active member may apply to withdraw from membership in the retirement system and  
23 receive a refund of the member's accumulated contributions no sooner than 30 days before the date of the  
24 member's termination from employment in all positions reportable to the retirement system.

25 (c) The application must be made on a form or in a manner prescribed by the retirement system  
26 and is not complete until all required supporting documentation is provided. The application is void if the  
27 documentation is not provided within 60 days after the application date.

28 (2) The retirement system shall refund a withdrawing member's accumulated contributions after

1 the latest of the following dates:

2 (a) the last day of the month in which the member terminated employment in all positions  
3 reportable to the retirement system;

4 (b) the last day of the last month for which the employer reported to the retirement system  
5 compensation paid to the member; or

6 (c) the date that the member's application to withdraw is complete.

7 (3) A member's withdrawal and refund under this section:

8 (a) is irrevocable after the refund has been processed by the retirement system;

9 (b) constitutes forfeiture of the member's creditable service and any right to a benefit pursuant to  
10 that service;

11 (c) terminates the member's membership in the retirement system; and

12 (d) terminates a withdrawn tier one member's status as a tier one member.

13 (4) An individual who has withdrawn and later returns to employment in a position reportable to the  
14 retirement system may purchase the forfeited creditable service as provided in 19-20-427. However, a tier one  
15 or tier two member who withdraws and returns to employment in a position reportable to the retirement system  
16 must return as a tier ~~two~~ three member even if the member purchases the forfeited creditable service.

17 (5) The withdrawal application of a member is void if the member is reported to the retirement  
18 system for current employment in a position reportable to the retirement system before the refund is  
19 processed."  
20

21 **Section 16.** Section 19-20-608, MCA, is amended to read:

22 **"19-20-608. Member supplemental contribution -- actuarially determined adjustments --**

23 **effective dates.** (1) (a) Subject to subsections (1)(b) and (1)(c), a tier one member shall contribute to the  
24 retirement system a supplemental amount equal to 1% of the member's earned compensation.

25 (b) The board may decrease the tier one member supplemental contribution if:

26 (i) the average funded ratio of the system based on the last three actuarial valuations is equal to  
27 or greater than 90%; and

28 (ii) the period necessary to amortize all liabilities of the system based on the most recent annual

1 actuarial valuation is less than 15 years.

2 (c) Following one or more decreases in the supplemental contribution rate pursuant to subsection  
3 (1)(b), the board may increase the supplemental contribution to a rate not to exceed 1% if:

4 (i) the average funded ratio of the system based on the last three annual actuarial valuations is  
5 equal to or less than 80%; and

6 (ii) the period necessary to amortize all liabilities of the system based on the most recent annual  
7 actuarial valuation is greater than 20 years.

8 (2) (a) Subject to subsection (2)(b), on or after January 1, 2023, the board may require a tier two  
9 and tier three member to contribute to the retirement system a supplemental amount if:

10 (i) the average funded ratio of the system based on the last three annual actuarial valuations is  
11 equal to or less than 80%;

12 (ii) the period necessary to amortize all liabilities of the system based on the latest annual actuarial  
13 valuation is greater than 20 years; and

14 (iii) a state or employer contribution rate increase or a flat dollar contribution to the retirement  
15 system trust fund has been enacted that is equivalent to or greater than the supplemental contribution rate  
16 imposed by the board pursuant to this subsection (2)(a).

17 (b) A tier two and tier three member supplemental contribution increase under this subsection (2)  
18 may not:

19 (i) exceed 0.5% of earned compensation; and

20 (ii) result in an aggregate tier two or tier three member contribution rate of more than 9.15% when  
21 added to the normal contribution rate required under 19-20-602.

22 (c) Following imposition of a supplemental contribution rate increase under this subsection (2), the  
23 board may decrease the supplemental contribution rate if:

24 (i) the average funded ratio of the system based on the previous three annual actuarial valuations  
25 is equal to or greater than 90%; and

26 (ii) the period necessary to amortize all liabilities of the system based on the latest annual actuarial  
27 valuation is less than 15 years.

28 (3) After the board has actuarially determined the need to impose, increase, or decrease a

1 supplemental contribution rate under this section, the imposition, increase, or decrease is effective on the first  
2 day of July following the board's determination."

3

4 **Section 17.** Section 19-20-719, MCA, is amended to read:

5 **"19-20-719. Guaranteed annual benefit adjustment -- rulemaking.** (1) On January 1 of each year,  
6 the retirement allowance payable to each tier one member or benefit recipient of a tier one member who is  
7 eligible under subsection (3) must be increased by the amount provided in either subsection (1)(a) or (1)(b) as  
8 follows:

9 (a) if the most recent actuarial valuation of the retirement system shows that retirement system  
10 liabilities are less than 90% funded, 0.5%; or

11 (b) if the most recent actuarial valuation of the retirement system shows that retirement system  
12 liabilities are at least 90% funded and the provision of the increase is not projected to cause the system's  
13 liabilities to be less than 85% funded, an amount greater than 0.5% but no more than 1.5%, as set by the  
14 retirement board.

15 (2) On January 1 of each year, the retirement allowance payable to each tier two member or  
16 benefit recipient of a tier two member who is eligible under subsection (3) must, if the most recent actuarial  
17 valuation of the retirement system shows that retirement system liabilities are at least 90% funded and the  
18 provision of the increase is not projected to cause the system's liabilities to be less than 85% funded, be  
19 increased by an amount equal to or greater than 0.5% but no more than 1.5%, as set by the retirement board.

20 (3) A tier one or tier two benefit recipient is eligible for and must receive the annual benefit  
21 adjustment provided for in this section if at least 36 monthly retirement benefit payments have been made prior  
22 to January 1 of the year in which the adjustment is to be made.

23 (4) A tier three benefit recipient is not eligible to receive an annual benefit adjustment."

24

25 **Section 18.** Section 19-20-801, MCA, is amended to read:

26 **"19-20-801. Eligibility for service retirement.** (1) A tier one member is eligible to receive a service  
27 retirement allowance calculated under 19-20-804(1) if the member:

28 (a) has been credited with at least 5 full years of creditable service and has attained the age of 60;

1 or

2 (b) has been credited with full-time or part-time creditable service in 25 or more years.

3 (2) Except as provided in subsection (3), a tier two or tier three member is eligible to receive a  
4 service retirement allowance calculated under 19-20-804(1) if the member:

5 (a) has been credited with at least 5 full years of creditable service and has attained the age of 60;

6 or

7 (b) has been credited with full-time or part-time creditable service in 30 or more years and has  
8 attained the age of 55.

9 (3) A tier two or tier three member who has been credited with 30 or more years of creditable  
10 service and has attained the age of 60 is eligible for a professional retirement option allowance calculated  
11 under 19-20-804(2).

12 (4) To receive a retirement allowance under 19-20-804, the member must have terminated  
13 employment in all positions reportable to the retirement system and must file a written application with the  
14 retirement board.

15 (5) A vested member who has attained normal retirement age has a nonforfeitable right to the  
16 benefits accrued and payable under the provisions of this chapter, subject to the member's right to a refund of  
17 the member's accumulated contributions under 19-20-603."

18

19 **Section 19.** Section 19-20-802, MCA, is amended to read:

20 **"19-20-802. Early retirement.** (1) (a) A vested tier one member who is not eligible for service  
21 retirement but has attained the age of 50 is eligible for an early retirement allowance.

22 (b) A vested tier two or tier three member who is not eligible for service retirement but has attained  
23 the age of 55 is eligible for an early retirement allowance.

24 (2) A member retiring early under subsection (1) must have terminated employment in all positions  
25 reportable to the retirement system and must file a written application with the retirement board.

26 (3) The early retirement allowance must be determined as prescribed in 19-20-804, with the  
27 exception that the allowance will be reduced using actuarially equivalent factors based on the most recent  
28 actuarial valuation of the system."



1

2           **Section 20.** Section 19-20-804, MCA, is amended to read:

3           **"19-20-804. Allowance for service retirement -- professional retirement option allowance --**  
4 **creditable service limitation.** (1) Upon termination, a tier one or tier two member who qualifies for benefits  
5 pursuant to 19-20-801(1) or (2) must receive a retirement allowance equal to one-sixtieth of the member's  
6 average final compensation, as limited by 19-20-715, multiplied by the sum of the number of years of creditable  
7 service.

8           (2)     (a) Upon termination, a tier two or tier three member who qualifies for benefits pursuant to 19-  
9 20-801(3) must receive a professional retirement option allowance equal to 1.85% of the member's final  
10 average compensation, as limited by 19-20-715, multiplied by the sum of the member's years of creditable  
11 service.

12           (b)     For the purpose of calculating the professional retirement option, creditable service does not  
13 include:

14           (i)     service credited before the member became a tier two or tier three member even if the member  
15 redeposits the member's withdrawn contributions pursuant to 19-20-427; or

16           (ii)    service credit transferred under 19-20-409."  
17

18           **Section 21.** Section 19-20-805, MCA, is amended to read:

19           **"19-20-805. Calculation of average final compensation.** (1) Except as limited by this section,  
20 average final compensation is calculated by averaging the earned compensation paid to:

21           (a)     a tier one member in 3 consecutive fiscal years of full-time service that yields the highest  
22 average; or

23           (b)     a tier two or tier three member in 5 consecutive fiscal years of full-time service that yields the  
24 highest average.

25           (2)     (a) The earned compensation of a tier one member who retires under 19-20-802, 19-20-804, or  
26 19-20-902 and has less than 3 consecutive years of full-time service during the 5 years immediately preceding  
27 the member's termination is the compensation that the member would have earned in the 3 years used to  
28 calculate average final compensation had the member's part-time service during the 5 years preceding

1 termination been full-time service.

2 (b) The earned compensation of a tier two or tier three member who retires under 19-20-802, 19-  
3 20-804, or 19-20-902 and has less than 5 consecutive years of full-time service during the 7 years immediately  
4 preceding the member's termination is the compensation that the member would have earned in the 5 years  
5 used to calculate average final compensation had the member's part-time service during the 7 years preceding  
6 termination been full-time service.

7 (3) To determine the compensation that the member would have earned under subsection (2), the  
8 compensation reported must be divided by the part-time service credited to the member's account.

9 (4) (a) Subject to subsection (4)(b), if a member has transferred service from the public employees'  
10 retirement system as provided under 19-20-409 and does not have 3 consecutive years of full-time service if a  
11 tier one member or 5 consecutive years of full-time service if a tier two or tier three member reported to the  
12 teachers' retirement system, the member's average final compensation must be calculated as follows:

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

18 (ii) if the member's part-time service credit in the public employees' retirement system plus the  
19 member's part-time service credit in the teachers' retirement system equals less than 1 year in any of the fiscal  
20 years used to determine average final compensation, then the member's part-time salary as a member of the  
21 public employees' retirement system plus the member's part-time salary as a member of the teachers'  
22 retirement system must be divided by the sum of the member's part-time teachers' retirement system service  
23 credit and the member's part-time public employees' retirement system service credit.

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

27

28 **Section 22.** Section 19-20-901, MCA, is amended to read:

