SENATE BILL NO. 348

INTRODUCED BY T. MCGILLVRAY, G. HERTZ


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

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

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

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

(i) before July 1, 2007; or

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

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

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

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

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

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

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

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

"19-5-901. 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 3%.
(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 a 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 3% 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 a 3% annualized increase, 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 3% more than the amount that the contingent annuitant would have received had the contingent annuitant received a benefit during the preceding January.

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

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

(b) the member or benefit recipient either:

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

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

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

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

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

"19-6-712. Guaranteed annual benefit adjustment for employees hired after July 1, 2013. (1) Subject to subsection (2), for employees hired on or after July 1, 2013, 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 1.5%."
(2) (a) If the 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 a 1.5% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 1.5% 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 adjustments amount to more than a 1.5% annualized increase, then the benefit increase provided for under this section must be 0%.

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

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

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

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

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

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

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

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

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

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

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

Section 5. Section 19-7-711, MCA, is amended to read:
"19-7-711. **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 (5) more than the amount that the contingent annuitant would have received had the contingent annuitant received a benefit during the preceding January.

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

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

(i) before July 1, 2007; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) may not accrue the postretirement benefit adjustments provided in part 7 of this chapter during the member's term of reemployment."
Section 7. Section 19-8-1105, MCA, is amended to read:

"19-8-1105. 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 (5) more than the amount that the contingent annuitant would have received had the contingent annuitant received a benefit during the preceding January.

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

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

(i) before July 1, 2007; or

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

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

(c) A member hired on or after July 1, 2023, is not eligible for the guaranteed annual benefit adjustment.
(5) (a) The applicable percentage rate for a contingent annuitant described in subsection (2)(c) is 3% if the original payee:

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) for benefits under subsections (1)(c) and (2)(a), an eligible member is entitled to a guaranteed annual benefit adjustment based on the member's hire date pursuant to 19-8-1105 in January immediately
following the member’s termination of service or retirement, whichever is applicable;
(b) for benefits under subsection (2)(b), an eligible member is entitled to a guaranteed annual
benefit adjustment pursuant to 19-8-1105 in January after the member has received the second retirement
benefit for at least 12 months.
(4) A retired member who returns to active service pursuant to 19-8-1201(1) following retirement:
(a) is not eligible for a disability retirement; and
(b) may not accrue the postretirement benefit adjustments provided in part 11 of this chapter
during the member's term of reemployment."

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

"19-9-1009. 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 3%.
(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 a 3% annualized
increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized
increase of 3% 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 a 3% annualized
increase, then the benefit increase provided under this section must be 0%.
(3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the
minimum annual benefit adjustment provided for in this section if:
(a) the benefit's commencement date is at least 12 months prior to January 1 of the year in which
the adjustment is to be made; and
(b) the member either:
(i) first became an active member on or after July 1, 1997; or
(ii) filed a voluntary, irrevocable election to be covered under this section. The election must be
filed with the board prior to January 1, 1998, and requires an active member to pay an increased contribution
rate from July 1, 1997, forward. A retired member or the member's survivor who is receiving a monthly benefit before July 1, 1997, shall also file the voluntary, irrevocable election no later than January 1, 1998, to be covered under this section.

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

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

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

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

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

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

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

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

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

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

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

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

(i) a minimum monthly adjustment pursuant to 19-9-1007 when, immediately following the member's termination of service or retirement, whichever is applicable, a minimum monthly adjustment is granted to all eligible covered retirees; or
(ii) a guaranteed annual benefit adjustment based on the member's hire date pursuant to 19-9-1009, 19-9-1010, or 19-9-1013 in January immediately following the member's termination of service or retirement, whichever is applicable;

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

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

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

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

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

"19-13-1010. 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 3%.

(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 a 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 3% 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 a 3% annualized increase, then the benefit increase provided under this section must be 0%.

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

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

(b) the member either:

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

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

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

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

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

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

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

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

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

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

(b) a second retirement benefit calculated for the period of reemployment under 19-13-704 and the laws in effect as of the member’s rehire date.

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

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

(i) a minimum benefit adjustment pursuant to 19-13-1007 when, immediately following the
member’s termination of service or retirement, whichever is applicable, a minimum benefit adjustment is
granted to all eligible covered retirees; or
(ii) a guaranteed annual benefit adjustment based on the member’s hire date pursuant to 19-13-1010 or 19-13-1011 in January immediately following the member’s termination of service or retirement, whichever is applicable;
(b) for benefits under subsection (2)(b), an eligible member is entitled to a guaranteed annual
benefit adjustment pursuant to 19-13-1010 or 19-13-1011 in January after the member has received the second retirement benefit for at least 12 months.
(4) A retired member who returns to active service pursuant to 19-13-1101(2) following retirement:
(a) is not eligible for a disability retirement; and
(b) may not accrue the postretirement benefit adjustments provided for in part 10 of this chapter
during the member’s term of reemployment."

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

"19-20-101. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:
(1) "Accumulated contributions" or "account balance" means the sum of all the amounts deducted from the compensation of a member or paid by a member and credited to the member’s individual account in the annuity savings account, together with interest, minus any amount deducted for correction of errors and the aggregate amount of all retirement benefit payments and refunds of accumulated contributions paid to or on behalf of the member.
(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality table and interest rate assumption set by the retirement board.
(3) "Alternate beneficiary" means an estate or an individual not designated as a beneficiary but that becomes a beneficiary pursuant to 19-20-1005.
(4) "Average final compensation" means a member’s highest average earned compensation, determined pursuant to 19-20-805, on which all required contributions have been made.
(5) "Beneficiary designation" means the process that the retirement system prescribes pursuant to
this chapter by which a person authorized by law designates one or more beneficiaries.

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

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

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

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

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

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

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

(b) Earned compensation does not include:

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

(ii) any direct employer payment or reimbursement for:

(A) professional membership dues;

(B) maintenance;

(C) housing;

(D) day care;

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

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

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

(iv) any noncash benefit provided by an employer to or on behalf of a member;
termination pay unless included pursuant to 19-20-716;

compensation paid to a member from a plan for the deferral of compensation under section 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f);

payment for sick, annual, or other types of leave paid to a member prior to termination from employment or accrued in excess of that normally allowed;

incentive or bonus payments paid to a member that are not part of a series of annual payments;

a professional stipend paid pursuant to 20-4-134;

any similar payment or reimbursement made to or on behalf of a member by an employer;

(i) Adding a direct employer-paid or noncash benefit to an employee's contract or subtracting the same or a similar amount as a pretax deduction is considered a fringe benefit and not earned compensation.

(ii) Cash paid in lieu of any direct employer-paid or noncash benefit that has previously been or would be paid or provided to or on behalf of the employee at the employee's request or direction is considered a fringe benefit and not earned compensation.

"Employer" means:

the state of Montana;

a public school district, as provided in 20-6-101 and 20-6-701;

the office of public instruction;

the board of public education;

an education cooperative;

the Montana school for the deaf and blind, as described in 20-8-101;

the Montana youth challenge program, as defined in 10-1-101;

a correctional facility, as defined in 41-5-103;

the Montana university system;

a community college; or

any other agency, political subdivision, or instrumentality of the state that employs a person who is designated a member of the retirement system pursuant to 19-20-302.
"Extra duty service" means service in an educational services capacity that is not compensated as part of the normally assigned duties and functions of a school district teacher, administrator, or other employee but is regularly assigned to one or more school district teachers, administrators, or other employees as part of the regular operation of the school district's curricular and extracurricular programs.

"Full-time service" means service that is:

(a) at least 180 days in a fiscal year;

(b) at least 140 hours a month during at least 9 months in a fiscal year; or

(c) at least 1,080 hours in a fiscal year under an alternative school calendar adopted by a school board and reported to the office of public instruction as required by 20-1-302. The standard for full-time service for a school district operating under an alternative school calendar must be applied uniformly to all employees of the school district required to be reported to the retirement system.

"Individual" means a human being.

"Internal Revenue Code" has the meaning provided in 15-30-2101.

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

"Member" means a person who has an individual account in the annuity savings account. Unless otherwise specified, "member" refers to a tier one member or a tier two member.

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

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

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

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

"Primary beneficiary" means a designated beneficiary with a first right to receive any benefit or refund of accumulated contributions payable upon the death of the individual authorized by law to make the
(25) "Regular interest" means interest at a rate set by the retirement board in accordance with 19-20-501(2).

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

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

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

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

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

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

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

(b) Termination pay does not include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution
from the retirement system. These contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

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

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

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

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

"19-20-603. Withdrawal from membership -- refund of accumulated contributions -- options. (1) (a) An inactive member may apply at any time to withdraw from membership in the retirement system and receive a refund of the member's accumulated contributions.

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

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

(2) The retirement system shall refund a withdrawing member's accumulated contributions after
the latest of the following dates:

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

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

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

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

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

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

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

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

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

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

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

"19-20-608. Member supplemental contribution -- actuarially determined adjustments -- effective dates. (1) (a) Subject to subsections (1)(b) and (1)(c), a tier one member shall contribute to the retirement system a supplemental amount equal to 1% of the member's earned compensation.

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

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

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

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

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

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

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

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

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

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

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

(i) exceed 0.5% of earned compensation; and

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

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

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

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

(3) After the board has actuarially determined the need to impose, increase, or decrease a
supplemental contribution rate under this section, the imposition, increase, or decrease is effective on the first

day of July following the board's determination."

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

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

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

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

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

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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

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

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

(3) The early retirement allowance must be determined as prescribed in 19-20-804, with the exception that the allowance will be reduced using actuarially equivalent factors based on the most recent actuarial valuation of the system."
Section 20. Section 19-20-804, MCA, is amended to read:

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

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

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

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

(ii) service credit transferred under 19-20-409.”

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

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

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

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

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

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

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

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

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

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

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

Section 22. Section 19-20-901, MCA, is amended to read:
19-20-901. Eligibility for disability retirement -- determination by board. (1) Except as provided in subsection (5), upon the application of a member or of the member’s employer for a disability retirement allowance, any member who has 5 or more years of creditable service and who has become disabled while being an active member may be retired by the retirement board the month immediately following the month in which employment is terminated.

(2) In order for a member to be eligible for disability retirement, the retirement board or its representative shall certify that the member is mentally or physically incapacitated for the further performance of the member’s duties, that the incapacity is likely to be permanent, and that the member should be retired. The board’s representative shall report to the board the representative’s findings and any action taken by the representative, and the action must be presented to the board for approval by the board.

(3) In making a determination under subsection (2), the retirement board or its representative may:
(a) order examinations by a physician, psychologist, or vocational rehabilitation counselor;
(b) conduct hearings, administer oaths and affirmations, take depositions, and certify to official acts; and
(c) issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memorandums, and other records considered necessary as evidence in connection with a claim for disability retirement. The subpoenas issued under this subsection (3)(c) are enforceable as provided in 2-4-104.

(4) The retirement board may secure and pay reasonable compensation for professional services and advice that the board determines necessary to carry out the purposes of this part.

(5) (a) A tier two or tier three member is not eligible for disability retirement if the member is or will be eligible for service retirement on or before the member’s date of termination.
(b) A disability retirement application filed by a member who is ineligible for disability retirement under subsection (5)(a) will be processed as an application for a service retirement allowance.”

NEW SECTION. Section 23. Effective date. [This act] is effective July 1, 2023.