

SENATE BILL NO. 333

INTRODUCED BY R. ARTHUN

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

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17
18 **Section 1.** Section 19-2-303, MCA, is amended to read:

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

21 (1) "Accumulated contributions" means the sum of all the regular and any additional contributions made
22 by a member in a defined benefit plan, together with the regular interest or interest credit, as defined in [section
23 21], on the contributions.

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

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

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

1 table and interest rate assumptions adopted by the board.

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

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

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

7 (8) "Annuity" means:

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

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

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

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

15 (10) "Benefit" means:

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

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

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

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

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

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

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

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

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

1 system except as otherwise provided by law.

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

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

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

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

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

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

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

19 (a) a member;

20 (b) a member's surviving spouse;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (c) the element is highly specialized.

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

1 following June 30.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (a) terminated from service; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (a) the member's contribution account;

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

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

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

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

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

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

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

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

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

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

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

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

19 (b) Compensation does not include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25

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

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

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

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

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

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

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

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

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

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

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

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

21

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

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

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

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

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

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

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

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

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

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

16

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

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

21

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

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

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

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

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

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

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

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

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

5

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

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

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

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

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

13

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

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

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

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

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

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

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

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

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

7

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

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

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

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

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

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

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

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

3

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

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

8

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

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

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

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

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

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

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

6

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

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

11

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

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

16

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

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

21 (a) the member's accumulated contributions;

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

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

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

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

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

2

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

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

8

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

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

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

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

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

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

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

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

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

27

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

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

1 equivalent of:

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

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

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

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

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

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

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

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

20

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

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

25

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

30

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

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

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

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

7
8 **NEW SECTION. Section 22. Interest credit -- investment goals.** (1) The interest credit to be applied
9 to a member's contributions must be ~~4.5%~~ 4%, compounded annually.

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

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

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

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

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

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

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

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

28 (3) The amount redeposited on the interest credited on that amount is not eligible for the percentage
29 match under [section 25(2)].

30

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

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

12
 13 NEW SECTION. Section 26. Retirement benefit distribution options. (1) A vested member who is
 14 entitled to the vested cash balance amount under ~~[section 25]~~ AT LEAST 60 YEARS OF AGE may elect to receive a
 15 retirement benefit that is the actuarial equivalent of the member's vested cash balance amount payable as an
 16 annuity for the life of the member or payable under option 2, 3, or 4, as provided for in 19-3-1501.

17 (2) To receive a retirement benefit under this section, the member must have terminated ~~employment~~
 18 SERVICE.

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

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

24 ~~———— (2) The member must be considered a new member with respect to the reemployment, is not vested until~~
 25 ~~the member completes 5 years of service after reemployment, and may accrue a second retirement benefit based~~
 26 ~~only on the member's accumulated contributions after reemployment, subject to all applicable provisions of~~
 27 ~~chapter 2 and this chapter. (1) IF A MEMBER RECEIVING AN ANNUITY UNDER [SECTION 26] IS REEMPLOYED IN A COVERED~~
 28 ~~POSITION, THE MEMBER'S ANNUITY PAYMENTS MUST BE TERMINATED.~~

29 (2) THE BOARD SHALL ADOPT RULES SPECIFYING THE EXTENT TO WHICH A MEMBER MAY REDEPOSIT AMOUNTS
 30 RECEIVED BY THE MEMBER UNDER [SECTION 26]. IF A MEMBER MAKES A REDEPOSIT, THE MEMBER MUST RECEIVE

1 MEMBERSHIP SERVICE CREDIT PROPORTIONAL TO THE AMOUNT REDEPOSITED.

2 (3) THE AMOUNT REDEPOSITED AND THE INTEREST CREDITED ARE NOT ELIGIBLE FOR THE PERCENTAGE MATCH
 3 UNDER [SECTION 25(2)].

4
 5 NEW SECTION. **Section 28. Death and disability benefits -- rulemaking.** (1) (a) The designated
 6 beneficiary of a nonvested member who dies before retirement is entitled to receive a lump-sum payment of the
 7 member's accumulated contributions.

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

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

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

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

17
 18 **Section 29.** Section 19-20-101, MCA, is amended to read:

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

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

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

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

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

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

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

4 ~~(6)(7)~~ "Creditable service" is that service defined by 19-20-401.

5 ~~(7)(8)~~ (a) "Earned compensation" means, except as limited by subsections ~~(7)(b)~~ (8)(b) and ~~(7)(c)~~ (8)(c)
6 or by 19-20-715, remuneration paid for the service of a member out of funds controlled by an employer before
7 any pretax deductions allowed under the Internal Revenue Code are deducted.

8 (b) Earned compensation does not include:

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

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

12 (A) professional membership dues;

13 (B) maintenance;

14 (C) housing;

15 (D) day care;

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

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

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

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

20 (v) termination pay unless included pursuant to 19-20-716;

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

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

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

26 (ix) any similar payment or reimbursement made to or on behalf of a member by an employer.

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

29 ~~(8)(9)~~ "Employer" means:

30 (a) the state of Montana;

- 1 (b) a public school district, as provided in 20-6-101 and 20-6-701;
 2 (c) the office of public instruction;
 3 (d) the board of public education;
 4 (e) an education cooperative;
 5 (f) the Montana school for the deaf and blind, as described in 20-8-101;
 6 (g) the Montana youth challenge program, as defined in 10-1-101;
 7 (h) a state youth correctional facility, as defined in 41-5-103;
 8 (i) the Montana university system;
 9 (j) a community college; or
 10 (k) any other agency or subdivision of the state that employs a person who is designated a member of
 11 the retirement system pursuant to 19-20-302.

12 ~~(9)~~(10) "Full-time service" means service that is:

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

19 ~~(10)~~(11) "Internal Revenue Code" has the meaning provided in 15-30-2101.

20 ~~(11)~~(12) "Joint annuitant" means the one person that a retired member who has elected an optional
 21 allowance under 19-20-702 has designated to receive a retirement allowance upon the death of the retired
 22 member.

23 ~~(12)~~(13) "Member" means a person who has an individual account in the annuity savings account. An
 24 active member is a person included under the provisions of 19-20-302. An inactive member is a person included
 25 under the provisions of 19-20-303.

26 ~~(13)~~(14) "Normal form" or "normal form benefit" means a monthly retirement benefit payable during the
 27 lifetime of the retired member.

28 ~~(14)~~(15) "Normal retirement age" means an age no earlier than 55 years of age, with the right to receive
 29 immediate retirement benefits without an actuarial reduction in the benefits.

30 ~~(15)~~(16) "Part-time service" means service that is not full-time service. Part-time service must be credited

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

2 ~~(16)~~(17) "Regular interest" means interest at a rate set by the retirement board in accordance with
3 19-20-501(2).

4 ~~(17)~~(18) "Retired", "retired member", or "retiree" means a person who has terminated employment that
5 qualifies the person for membership and who has received at least one monthly retirement benefit paid pursuant
6 to this chapter.

7 ~~(18)~~(19) "Retirement allowance" or "retirement benefit" means a monthly payment due to a retired
8 member who has qualified for a service, cash balance, or disability retirement or due to a joint annuitant or
9 beneficiary.

10 ~~(19)~~(20) "Retirement board" or "board" means the retirement system's governing board provided for in
11 2-15-1010.

12 ~~(20)~~(21) "Retirement system", "system", or "plan" means the teachers' retirement system of the state of
13 Montana provided for in 19-20-102.

14 ~~(21)~~(22) "Service" means the performance of duties that would entitle the person to active membership
15 in the retirement system under the provisions of 19-20-302.

16 ~~(22)~~(23) "Termination" or "terminate" means that the member has severed the employment relationship
17 with the member's employer and that all, if any, payments due upon termination of employment, including but not
18 limited to accrued sick and annual leave balances, have been paid to the member.

19 ~~(23)~~(24) (a) "Termination pay" means any form of bona fide vacation leave, sick leave, severance pay,
20 amounts provided under a window or early retirement incentive plan, or other payments contingent on the
21 employee terminating employment.

22 (b) Termination pay does not include:

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

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

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

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

1 ~~(24)~~(26) "Vested" means that a member has been credited with at least 5 full years of membership
2 service upon which contributions have been made and has a right to a future retirement benefit.

3 ~~(25)~~(27) "Written application" or "written election" means a written instrument, required by statute or the
4 rules of the board, properly signed and filed with the board, that contains all the required information, including
5 documentation that the board considers necessary."
6

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

8 **"19-20-102. Retirement system -- policy.** (1) The state teachers' retirement system created under the
9 provisions of Chapter 87, Laws of 1937, is the state teachers' retirement system of the state of Montana, and the
10 provisions of this chapter do not affect or impair the validity of any action taken by its governing board or the rights
11 of any person arising under the provisions of Chapter 87, Laws of 1937, or any subsequent amendment to this
12 chapter. The state teachers' retirement system is known as "The Teachers' Retirement System of the State of
13 Montana" and in that name shall transact all business of the retirement system, hold its assets in trust, and have
14 the powers and privileges of a corporation that may be necessary to administer the provisions of this chapter.

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

16 (a) provide equitable retirement benefits to:

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

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

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

23 (c) limit the compensation that a retired member may earn after retirement while working in a position
24 that would normally be covered under the teachers' retirement system to the amount determined under
25 19-20-731.

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

30 (a) the information may be used only for reasons related to verifying appropriate pension plan

1 participation; and

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

4

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

6 **"19-20-104. Guarantee by state.** Regular interest ~~charges and interest credit, as defined in [section 43].~~
7 payable, the creation and maintenance of reserves in the pension accumulation account, ~~and~~ the maintenance
8 of accumulated contributions in the annuity savings account, as provided for in this chapter, and the payment of
9 all retirement allowances, refunds, and other benefits granted under the retirement system are obligations of the
10 state of Montana."

11

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

14

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

16 **"19-20-702. Optional allowances -- certain period and life allowances.** (1) Until the first payment on
17 account of any benefit becomes normally due, any member may elect to receive one of the allowances described
18 in subsection (2) or (3) in lieu of the normal form of retirement allowance for a tier one member, which is provided
19 for in 19-20-902 and part 8 of this chapter, or for a tier two member as provided in [section 48].

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

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

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

30 (c) Option C--the optional allowance will be paid to the member throughout the member's lifetime, and

1 upon the member's death, two-thirds of the optional allowance will be continued throughout the lifetime of the
2 member's joint annuitant.

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

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

8 (i) 10 years if the member is 75 years of age or younger at the time of retirement; or

9 (ii) 20 years if the member is 65 years of age or younger at the time of retirement.

10 (b) At the time of retirement, the member shall file with the board a written nomination of beneficiaries
11 to receive payments if the member dies before the end of the certain period elected. Unless limited by a family
12 law order, the nominated beneficiary may be changed by the member at any time by filing with the board a written
13 notice designating different beneficiaries.

14 (4) (a) Upon written application to the retirement board, a retired member whose effective date of
15 retirement is before October 1, 1993, and who is receiving an optional retirement allowance may select a different
16 actuarially equivalent optional allowance and designate a different joint annuitant if:

17 (i) the original joint annuitant has died. The benefit must convert to the normal form of retirement
18 allowance effective the first of the month following the death of the joint annuitant.

19 (ii) the member has been divorced from the original joint annuitant and the original joint annuitant has not
20 been granted the right to receive the optional retirement allowance as part of the divorce settlement. The benefit
21 must convert to the normal form of retirement allowance effective the first of the month following receipt of a
22 written application and verification that the original joint annuitant has not been granted the right to receive the
23 optional retirement allowance as part of the divorce settlement.

24 (b) Upon receipt of the written application, the board shall actuarially adjust the member's monthly
25 retirement or disability allowance to reflect the change.

26 (5) A retired member receiving an optional retirement allowance pursuant to subsection (2)(a), (2)(b),
27 or (2)(c) that is effective after October 1, 1993, may file a written application to select a different actuarially
28 equivalent optional allowance and designate a different joint annuitant or to revert the optional retirement
29 allowance to the full normal form of retirement allowance available at the time of retirement if:

30 (a) the original joint annuitant has died. The benefit must revert to the full normal form of retirement

1 allowance effective the first of the month following the death of the original joint annuitant.

2 (b) the member has been divorced from the original joint annuitant and the original joint annuitant has
3 not been granted the right to receive the optional retirement allowance as part of the divorce settlement. The
4 benefit must revert to the full normal form of retirement allowance effective the first of the month following receipt
5 of a written application and verification that the original joint annuitant has not been granted the right to receive
6 the optional retirement allowance as part of the divorce settlement.

7 (6) The normal form of retirement allowance available must be increased by the value of any
8 postretirement adjustments received by the member since the effective date of retirement.

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

11

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

13 **"19-20-716. Termination pay to tier one member.** (1) If a tier one member terminates and receives
14 termination pay at the time of retirement, the member shall select, subject to subsections (5) and (6), by signing
15 a binding, irrevocable written election at least 90 days before the member's termination date, one of the following
16 options:

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

21 (b) Option 2--The member may use a yearly amount of the total termination pay added to each of the
22 3 consecutive years' salary used in the calculation of the member's average final compensation. To determine
23 the amount of termination pay used in the calculation of average final compensation, termination pay must be
24 divided by the total number of years of creditable service to determine a yearly amount. The member and the
25 employer shall pay contributions on the termination pay according to the rates provided for in 19-20-602 and
26 19-20-605(1). For the purposes of this subsection (1)(b), the employer shall also pay as a contribution an amount
27 equal to the termination pay multiplied by the rate established in 19-20-607 that would have been payable by the
28 state as a supplemental contribution. The contributions must be made at the time of termination.

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

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

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

7 (b) the member may not choose to directly receive the amounts deducted from the member's termination
8 pay instead of having them paid by the employer to the system;

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

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

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

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

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

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

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

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

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

23 (6) If a member and the member's employer fail to sign the written election within the time period required
24 in subsection (1), the member may contribute for the purposes specified in subsections (1)(a) and (1)(b) on all
25 or any part of the termination pay received. A contribution made pursuant to this subsection may not be picked
26 up by the employer and is subject to the limitations of section 415 of the Internal Revenue Code."
27

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

29 **"19-20-719. Guaranteed annual benefit adjustment -- ~~rulemaking~~ nonapplication of section.** (1)

30 On January 1 of each year, the retirement allowance payable to each recipient who is eligible under subsection

1 (2) must be increased by 1.5%.

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

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

6

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

8 **"19-20-731. Postretirement employment limitations -- cancellation and recalculation of benefits**

9 **-- reporting obligation of retired member -- nonapplication of section.** (1) (a) Except as [provided in
10 19-20-732 or as] otherwise provided in this section, a retired member may be employed by an employer in a
11 position that is reportable to the retirement system and may earn, without an adjustment of retirement benefits,
12 an amount not to exceed the greater of:

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

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

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

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

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

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

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

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

28 (2) On July 1 of each year following the member's retirement effective date, the maximum that a retired
29 member may earn under subsection (1)(a)(i) is increased by an amount equal to the consumer price index
30 increase for urban wage earners compiled by the bureau of labor statistics of the United States department of

1 labor or its successor agency in the preceding calendar year.

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

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

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

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

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

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

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

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

30 (9) This section does not apply under the cash balance tier. (Bracketed language terminates June 30,

1 2015--sec. 5, Ch. 129, L. 2009.)"

2

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

4 **"19-20-732. (Temporary) Reemployment of certain retired teachers, specialists and administrators**
5 **-- procedure -- definitions -- nonapplication of section.** (1) Subject to the provisions of this section:

6 (a) a teacher, specialist, or administrator who has been receiving a retirement allowance for no less than
7 2 months, except a disability retirement allowance pursuant to part 9 of this chapter, may be employed on a
8 full-time basis by an employer for a maximum of 3 years during the lifetime of the retired member without the loss
9 or interruption of any payments or retirement benefits if:

10 (i) the retired member completed 30 or more years of creditable service prior to retirement;

11 (ii) the retired member holds a valid certificate pursuant to the provisions of 20-4-106; and

12 (iii) each year, prior to employing a retired member, the employer certifies to the office of public instruction
13 and to the retirement board that after having advertised the position for that year the employer has been unable
14 to fill the position because the employer either has received no qualified applications or has not received an
15 acceptance of an offer of employment made to a nonretired teacher, specialist, or administrator;

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

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

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

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

25 (2) An employer employing a retired member pursuant to this section shall contribute monthly to the
26 retirement system an amount equal to the sum of the contribution rates required by 19-20-602, 19-20-604,
27 19-20-605, and 19-20-607.

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

30 (4) If reemployed in a position covered by a collective bargaining agreement pursuant to Title 39, chapter

1 31, the retired member is subject to all the terms and conditions of the agreement and is entitled to all the benefits
2 and protections of the agreement.

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

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

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

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

7 (7) This section does not apply under the cash balance tier. (Terminates June 30, 2015--sec. 5, Ch. 129,
8 L. 2009.)"

9

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

11 **"19-20-733. Resumption of employment by retired member -- suspension of benefits --**
12 **nonapplication of section.** (1) [Except as provided in 19-20-732,] if a retired member returns to employment
13 in a position covered by the retirement system and becomes an active contributing member, benefits must be
14 suspended until the member terminates all employment and applies to have benefits reinstated.

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

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

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

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

30 (i) at least 3 years of membership service following suspension of benefits, the member is entitled to

1 resume receiving the suspended benefit in accordance with the retirement benefit option and joint annuitant
2 previously selected, plus an additional benefit based upon the new creditable service and compensation earned.
3 The second benefit must be calculated as provided under 19-20-804 if the member is eligible for a service
4 retirement benefit or under 19-20-802 if the member is eligible for early retirement. The second benefit must be
5 paid under the same retirement benefit option and with the same joint annuitant originally elected.

6 (ii) less than 3 years of membership service following suspension of benefits, the member is entitled to
7 resume receiving the suspended benefit in accordance with the retirement benefit option previously selected, plus
8 a refund of the employee contributions contributed after the member was reinstated to active service, plus
9 interest.

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

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

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

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

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

25

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

27 **"19-20-805. Calculation of average final compensation.** (1) Except as limited by this section, average
28 final compensation is calculated by averaging the earned compensation paid to a member in 3 consecutive fiscal
29 years of full-time service that yields the highest average.

30 (2) The earned compensation of a member who retires under 19-20-802, 19-20-804, or 19-20-902 and

1 has less than 3 consecutive years of full-time service during the 5 years immediately preceding the member's
2 termination is the compensation that the member would have earned in the 3 years used to calculate average
3 final compensation had the member's part-time service been full-time service. To determine the compensation
4 that the member would have earned, the compensation reported must be divided by the part-time service credited
5 to the member's account.

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

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

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

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

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

28 (b) If benefits have been converted to earned compensation as described in subsection (4)(a) but have
29 been reported as earned compensation for less than 5 fiscal years or if the member has been given the option
30 to have benefits converted to earned compensation, any converted benefits reported as earned compensation

1 in the 3 years used to calculate average final compensation may be included in the calculation of average final
2 compensation only as termination pay under 19-20-716(1)(b)."

3

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

5 **"19-20-1001. Allowances for death of member prior to retirement.** (1) If a member dies before
6 retirement, the member's accumulated contributions must be paid to the member's estate or to the beneficiary
7 that the member nominated by a written application in a manner prescribed by the board and filed with the
8 retirement board prior to the member's death.

9 (2) (a) ~~In~~ Upon the death of a tier one member, in lieu of benefits provided for in subsection (1), if the
10 deceased member qualified by reason of service for a retirement benefit, the nominated beneficiary may elect
11 to receive a retirement allowance. The retirement allowance must be determined as prescribed in 19-20-804,
12 without reference to 19-20-715(2), in the same manner as if the member elected option A provided for in
13 19-20-702(2)(a).

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

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

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

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

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

23 ~~(3)(5)~~ If ~~the~~ a deceased tier one member had 5 or more years of creditable service and was an active
24 member in the state of Montana within 1 year before the member's death, a lump-sum death benefit of \$500 is
25 payable to the member's designated beneficiary.

26 ~~(4)(6)~~ If a deceased tier one member had 5 or more years of creditable service and was an active
27 member in the state of Montana within 1 year prior to the member's death, the sum of \$200 a month must be paid
28 to each minor child of the deceased member until the child reaches 18 years of age.

29 ~~(5)(7)~~ If the member nominated more than one beneficiary to receive payment of a benefit provided by
30 this section upon the member's death, then:

- 1 (a) each beneficiary is entitled to share in that benefit; and
- 2 (b) if a beneficiary predeceases the member, the benefit must be divided among the surviving
- 3 beneficiaries.
- 4 ~~(6)~~(8) If a family law order has been issued, an alternate payee's rights under the family law order must
- 5 be given priority over the rights of a beneficiary."

6

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

8 **"19-20-1002. Payments upon death of retiree.** (1) In the event of the death of a retired tier one

9 member, a death benefit of \$500 is payable to the joint annuitant or designated beneficiary.

10 (2) If the deaths of a retired tier one or tier two member and of the joint annuitant or all designated

11 beneficiaries occur before the total retirement allowance payments made to the retired member and to the joint

12 annuitant or all designated beneficiaries equal the amount of the member's accumulated contributions at the time

13 of the member's retirement, the difference between the total retirement allowance paid and the amount of the

14 accumulated contributions must be paid to the estate of the joint annuitant or to the estate of the longest-surviving

15 beneficiary.

16 (3) If a deceased tier one member had 5 or more years of creditable service and was retired at the time

17 of death, the sum of \$200 a month must be paid to each minor child of the deceased retiree until the child reaches

18 18 years of age."

19

20 NEW SECTION. **Section 42. Legislative intent.** The intent of the cash balance tier established

21 pursuant to [sections 42 through 50] is to mitigate the risk of future unfunded liabilities by establishing for new

22 members of the defined benefit plan retirement benefits that will be based on a member's actual contributions,

23 a fixed interest credit, and a matching amount that increases according to the member's years of actual service.

24

25 NEW SECTION. **Section 43. Definitions.** Unless the context requires otherwise, as used in [sections

26 42 through 50], the following definitions apply:

- 27 (1) "Interest credit" means the amount of interest credited under [section 44] to a member's contributions.
- 28 (2) "Member" means a tier two member.
- 29 (3) "Vested cash balance amount" means the amount that a vested member is entitled to receive under
- 30 [section 47].

1
 2 **NEW SECTION. Section 44. Interest credit -- investment goals.** The interest credit to be applied to
 3 a member's accumulated contributions must be ~~4.5%~~ 4%, compounded annually.

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

6
 7 **NEW SECTION. Section 45. Termination of membership -- withdrawal or rollover.** (1) After
 8 terminating employment in all positions reportable to the retirement system, a nonvested member may terminate
 9 membership in the retirement system by electing to withdraw the member's accumulated contributions under the
 10 applicable provisions of 19-20-603.

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

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

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

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

17
 18 **NEW SECTION. Section 46. Redeposits -- service credit.** (1) An employee hired into a position
 19 reportable to the retirement system who was previously a member and withdrew the member's accumulated
 20 contributions or vested cash balance amount may redeposit the amount withdrawn in a manner prescribed by
 21 the board.

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

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

26
 27 **NEW SECTION. Section 47. Vested cash balance amount -- eligibility.** ~~A member who is vested and~~
 28 ~~who is at least 60 years of age has attained normal retirement age and is entitled to a~~ THE vested cash balance
 29 amount ~~that~~ FOR A VESTED MEMBER is the total of:

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

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

8

9 **NEW SECTION. Section 48. Retirement benefit distribution options.** (1) A vested member who is

10 ~~entitled to the vested cash balance amount under [section 47]~~ AT LEAST 60 YEARS OF AGE may elect to receive a

11 retirement benefit that is the actuarial equivalent of the member's vested cash balance amount payable as an

12 annuity for the life of the member or payable under one of the options provided for in 19-20-702.

13 (2) To receive a retirement benefit under this section, the member must have terminated employment

14 in a position reportable to the retirement system.

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

16

17 **NEW SECTION. Section 49. Reemployment after retirement -- RULEMAKING.** (1) ~~A member who is~~

18 ~~reemployed in a covered position after receiving at least one benefit payment must continue to receive the~~

19 ~~member's retirement benefit.~~

20 ~~————(2) The member must be considered a new member with respect to the reemployment, is not vested until~~

21 ~~the member completes 5 years of service after reemployment, and may accrue a second retirement benefit based~~

22 ~~only on the member's accumulated contributions after reemployment, subject to all applicable provisions of this~~

23 ~~chapter. (1) IF A MEMBER RECEIVING AN ANNUITY UNDER [SECTION 48] IS REEMPLOYED IN A COVERED POSITION, THE~~

24 ~~MEMBER'S ANNUITY PAYMENTS MUST BE TERMINATED.~~

25 ~~(2) THE BOARD SHALL ADOPT RULES SPECIFYING THE EXTENT TO WHICH A MEMBER MAY REDEPOSIT AMOUNTS~~

26 ~~RECEIVED BY THE MEMBER UNDER [SECTION 48]. IF A MEMBER MAKES A REDEPOSIT, THE MEMBER MUST RECEIVE~~

27 ~~MEMBERSHIP SERVICE CREDIT PROPORTIONAL TO THE AMOUNT REDEPOSITED.~~

28 ~~(3) THE AMOUNT REDEPOSITED AND THE INTEREST CREDITED ARE NOT ELIGIBLE FOR THE PERCENTAGE MATCH~~

29 ~~UNDER [SECTION 47(2)].~~

30

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

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

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

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

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

13

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

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

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

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

24

25 **NEW SECTION. Section 52. Codification instruction.** (1) [Sections 20 through 28] are intended to
26 be codified as an integral part of Title 19, chapter 3, and the provisions of Title 19, chapter 3, apply to [sections
27 20 through 28].

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

30 (b) [Section 32] is intended to be codified as an integral part of Title 19, chapter 20, part 8, and the

1 provisions of Title 19, chapter 20, part 8, apply to [section 32].

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

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

6
7 **NEW SECTION. Section 53. Saving clause.** [This act] does not affect rights and duties that matured,
8 penalties that were incurred, or proceedings that were begun before [the effective date of this section].

9
10 **NEW SECTION. Section 54. Severability.** If a part of [this act] is invalid, all valid parts that are
11 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
12 the part remains in effect in all valid applications that are severable from the invalid applications.

13
14 **NEW SECTION. Section 55. Effective dates.** (1) [Sections 51 through 54] and this section are effective
15 on passage and approval.

16 (2) [Sections 1 through 28] are effective July 1 in the year that is at least 3 months following the date that
17 the public employees' retirement board receives a private letter ruling from the internal revenue service that states
18 that implementation of [this act] will not result in the public employees' retirement system losing its status as a
19 "qualified plan" pursuant to 26 U.S.C. 401(a).

20 (3) [Sections 29 through 50] are effective July 1 in the year that is at least 3 months following the date
21 that the teachers' retirement board receives a private letter ruling from the internal revenue service that states
22 that implementation of [this act] will not result in the teachers' retirement system losing its status as a "qualified
23 plan" pursuant to 26 U.S.C. 401(a).

24 - END -