

1 SENATE BILL NO. 387
2 INTRODUCED BY B. HOVEN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING TEACHER RETIREMENT SYSTEM
5 POLICY; ESTABLISHING A TIER THREE FOR NEW HIRES IN THE TEACHERS' RETIREMENT SYSTEM;
6 REQUIRING THE TEACHERS' RETIREMENT BOARD TO ESTABLISH ANNUALLY AN INTEREST CREDIT
7 RATE; PROVIDING DEATH AND DISABILITY BENEFITS FOR TIER THREE MEMBERS; REQUIRING A
8 MEMBER TO ELECT A CONTRIBUTION RATE AT THE TIME OF HIRE; ESTABLISHING A GRADED
9 VESTING SCHEDULE FOR EMPLOYER MATCH; PROVIDING FOR A POSTRETIREMENT EMPLOYMENT
10 AND PURCHASE OF PREVIOUS SERVICE CREDIT IN THE NEW TIER; ESTABLISHING MINIMUM AND
11 MAXIMUM INTEREST CREDIT RATES; GRANTING THE BOARD THE POWER AND DUTY TO
12 ADMINISTER THE NEW TIER; REQUIRING OVERSIGHT BY THE STATE ADMINISTRATION AND
13 VETERANS' AFFAIRS INTERIM COMMITTEE; ~~REQUIRING THE BOARD TO SEEK A RULING OF THE~~
14 ~~INTERNAL REVENUE SERVICE; PROVIDING FOR AN ALTERNATE RETIREMENT SYSTEM MATCH FOR~~
15 ~~VESTING BASED ON A RULING FROM THE INTERNAL REVENUE SERVICE; REQUIRING THE BOARD TO~~
16 ~~CERTIFY WHEN THE NEW TIER IS OPERATIONAL;~~ PROVIDING DEFINITIONS; AMENDING SECTIONS
17 19-20-101, 19-20-102, 19-20-104, 19-20-201, 19-20-501, 19-20-602, 19-20-605, 19-20-716, 19-20-731, 19-20-
18 732, 19-20-733, 19-20-801, 19-20-902, 19-20-1001, AND 19-20-1002, MCA; AND PROVIDING A DELAYED
19 EFFECTIVE DATES DATE."

20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22
23 **Section 1.** Section 19-20-101, MCA, is amended to read:

24 **"19-20-101. Definitions.** As used in this chapter, unless the context clearly indicates otherwise, the
25 following definitions apply:

- 26 (1) "Accumulated contributions" or "account balance" means the sum of all the amounts deducted
27 from the compensation of a member or paid by a member and credited to the member's individual account in
28 the annuity savings account, together with interest, minus any amount deducted for correction of errors and the



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1 aggregate amount of all retirement benefit payments and refunds of accumulated contributions paid to or on
2 behalf of the member, or interest credit.

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

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

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

9 (5) "Beneficiary designation" means the process that the retirement system prescribes pursuant to
10 this chapter by which a person authorized by law designates one or more beneficiaries.

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

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

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

17 (9) "Contribution match" means a match of a vested tier three member's accumulated contributions,
18 determined in accordance with this chapter, and combined with the member's accumulated contributions at the
19 time of the member's retirement or withdrawal or on the member's death prior to retirement or withdrawal.

20 ~~(9)(10)~~ "Creditable service" is that service defined by 19-20-401.

21 ~~(10)(11)~~ "Date of termination" or "termination date" means the last date on which a member performed
22 service in a position reportable to the retirement system.

23 ~~(11)(12)~~ "Designated beneficiary" means one or more primary beneficiaries or contingent beneficiaries
24 designated pursuant to 19-20-1006.

25 ~~(12)(13)~~ (a) "Earned compensation" means, except as limited by subsections ~~(12)~~ ~~(13)~~(b) and ~~(12)~~
26 ~~(13)~~(c) or by 19-20-715, remuneration paid for the service of a member out of funds controlled by an employer
27 before any pretax deductions allowed under the Internal Revenue Code are deducted.

28 (b) Earned compensation does not include:

- 1 (i) direct employer premium payments on behalf of members for medical, pharmaceutical, disability,
2 life, vision, dental, or any other insurance;
- 3 (ii) any direct employer payment or reimbursement for:
 - 4 (A) professional membership dues;
 - 5 (B) maintenance;
 - 6 (C) housing;
 - 7 (D) day care;
 - 8 (E) automobile, travel, lodging, or entertaining expenses; or
 - 9 (F) any similar form of maintenance, allowance, or expenses;
- 10 (iii) the imputed value of health, life, or disability insurance or any other fringe benefits;
- 11 (iv) any noncash benefit provided by an employer to or on behalf of a member;
- 12 (v) termination pay unless included pursuant to 19-20-716;
- 13 (vi) compensation paid to a member from a plan for the deferral of compensation under section 457(f)
14 of the Internal Revenue Code, 26 U.S.C. 457(f);
- 15 (vii) payment for sick, annual, or other types of leave paid to a member prior to termination from
16 employment or accrued in excess of that normally allowed;
- 17 (viii) incentive or bonus payments paid to a member that are not part of a series of annual payments;
- 18 (ix) a professional stipend paid pursuant to 20-4-134; or
- 19 (x) any similar payment or reimbursement made to or on behalf of a member by an employer.
- 20 (c) Adding a direct employer-paid or noncash benefit to an employee's contract or subtracting the
21 same or a similar amount as a pretax deduction is considered a fringe benefit and not earned compensation.
- 22 ~~(13)~~(14) "Employer" means:
 - 23 (a) the state of Montana;
 - 24 (b) a public school district, as provided in 20-6-101 and 20-6-701;
 - 25 (c) the office of public instruction;
 - 26 (d) the board of public education;
 - 27 (e) an education cooperative;
 - 28 (f) the Montana school for the deaf and blind, as described in 20-8-101;

- 1 (g) the Montana youth challenge program, as defined in 10-1-101;
- 2 (h) a state youth correctional facility, as defined in 41-5-103;
- 3 (i) the Montana university system;
- 4 (j) a community college; or
- 5 (k) any other agency, political subdivision, or instrumentality of the state that employs a person who is
- 6 designated a member of the retirement system pursuant to 19-20-302.

7 ~~(14)~~(15) "Extra duty service" means service in an educational services capacity that is not

8 compensated as part of the normally assigned duties and functions of a school district teacher, administrator, or

9 other employee but is regularly assigned to one or more school district teachers, administrators, or other

10 employees as part of the regular operation of the school district's curricular and extracurricular programs.

11 ~~(15)~~(16) "Full-time service" means service that is:

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

18 ~~(16)~~(17) "Individual" means a human being.

19 (18) "Interest credit" means the rate of interest as determined by the board pursuant to [section 20]

20 and credited to a tier three member's annuity savings account.

21 ~~(17)~~(19) "Internal Revenue Code" has the meaning provided in 15-30-2101.

22 ~~(18)~~(20) "Joint annuitant" means the one person that a retired member who has elected an optional

23 allowance under 19-20-702(2), (4), or (5) has designated to receive a retirement allowance upon the death of

24 the retired member.

25 ~~(19)~~(21) "Member" means a person who has an individual account in the annuity savings account.

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

27 ~~(20)~~(22) "Normal form" or "normal form benefit" means a monthly retirement benefit payable only for

28 the lifetime of the retired member.

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1 ~~(21)~~(23) "Normal retirement age" means an age no earlier than 60 years of age.

2 ~~(22)~~(24) "Part-time service" means service that is not full-time service. Part-time service must be
3 credited in the proportion that the actual time worked compares to full-time service.

4 ~~(23)~~(25) "Position reportable to the retirement system" means a position in which an individual
5 performs duties that would entitle the person to active membership in the retirement system under the
6 provisions of 19-20-302.

7 ~~(24)~~(26) "Primary beneficiary" means a designated beneficiary with a first right to receive any benefit or
8 refund of accumulated contributions payable upon the death of the individual authorized by law to make the
9 designation.

10 ~~(25)~~(27) "Regular interest" means interest at a rate set by the retirement board in accordance with 19-
11 20-501(2)(a).

12 ~~(26)~~(28) "Retired", "retired member", or "retiree" means a person who is considered in retired member
13 status under the provisions of 19-20-810.

14 ~~(27)~~(29) "Retirement allowance" or "retirement benefit" means a monthly payment due to a retired
15 member who has qualified for service or disability retirement or due to a joint annuitant or beneficiary.

16 ~~(28)~~(30) "Retirement board" or "board" means the retirement system's governing board provided for in
17 2-15-1010.

18 ~~(29)~~(31) "Retirement system", "system", or "plan" means the teachers' retirement system of the state of
19 Montana provided for in 19-20-102.

20 ~~(30)~~(32) "Service" means the performance of duties that would entitle the person to active membership
21 in the retirement system under the provisions of 19-20-302.

22 ~~(31)~~(33) "Termination" or "terminate" means that the employment relationship between the member
23 and the member's employer has been terminated as required in 19-20-810.

24 ~~(32)~~(34) (a) "Termination pay" means any form of bona fide vacation leave, sick leave, severance pay,
25 amounts provided under a window or early retirement incentive plan, or other payments contingent on the
26 employee terminating employment.

27 (b) Termination pay does not include:

28 (i) amounts that are not wages under section 3121 of the Internal Revenue Code, determined without

1 regard to the wage base limitation; and

2 (ii) amounts that are payable to a member from a plan for the deferral of compensation under section
3 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f).

4 ~~(33)~~(35) "Tier one member" means a person who became a member before July 1, 2013, and who has
5 not withdrawn the member's account balance.

6 (36) "Tier three member" means a person who became a member on or after [the effective date of this
7 act] or who, after withdrawing the member's account balance, became a member again after [the effective date
8 of this act].

9 ~~(34)~~(37) "Tier two member" means a person who became a member on or after July 1, 2013, or who,
10 after withdrawing the member's account balance, became a member again after July 1, 2013.

11 ~~(35)~~(38) "Vested" means that a member has been credited with at least 5 full years of membership
12 service upon which contributions have been made and has a right to a future retirement benefit.

13 ~~(36)~~(39) "Written application" or "written election" means a written instrument, required by statute or
14 the rules of the board, properly signed and filed with the board, that contains all the required information,
15 including documentation that the board considers necessary."

16

17 **Section 2.** Section 19-20-102, MCA, is amended to read:

18 **"19-20-102. Retirement system -- policy.** (1) The state teachers' retirement system created under
19 the provisions of Chapter 87, Laws of 1937, is the state teachers' retirement system of the state of Montana,
20 and the provisions of this chapter do not affect or impair the validity of any action taken by its governing board
21 or the rights of any person arising under the provisions of Chapter 87, Laws of 1937, or any subsequent
22 amendment to this chapter. The state teachers' retirement system is known as "The Teachers' Retirement
23 System of the State of Montana" and in that name shall transact all business of the retirement system, hold its
24 assets in trust, and have the powers and privileges of a corporation that may be necessary to administer the
25 provisions of this chapter.

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

27 (a) provide equitable retirement benefits to:

28 (i) tier one or tier two members of the teachers' retirement system based on each member's normal

1 service and salary; and

2 (ii) a tier three member of the teachers' retirement system based on the member's accumulated
3 contributions and contribution match.

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

7 (c) limit the compensation that a tier one or tier two retired member may earn after retirement while
8 working in a position that would normally be covered under the teachers' retirement system to the amount
9 determined under 19-20-731.

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

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

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

18

19 **Section 3.** Section 19-20-104, MCA, is amended to read:

20 **"19-20-104. Guarantee by state.** Regular interest charges and interest credit payable, the creation
21 and maintenance of reserves in the pension accumulation account, ~~and~~ the maintenance of accumulated
22 contributions in the annuity savings account, as provided for in this chapter, and the payment of all retirement
23 allowances, refunds, and other benefits granted under the retirement system are obligations of the state of
24 Montana."

25

26 **Section 4.** Section 19-20-201, MCA, is amended to read:

27 **"19-20-201. Administration by retirement board -- jurisdiction and venue for judicial review. (1)**

28 The retirement board shall administer and operate the retirement system within the limitations prescribed by

1 this chapter, and it is the duty of the retirement board to:

2 (a) establish rules necessary for the proper administration and operation of the retirement system;

3 (b) approve or disapprove all expenditures necessary for the proper operation of the retirement
4 system;

5 (c) keep a record of all its proceedings, which must be open to public inspection;

6 (d) submit a report to the office of budget and program planning detailing the fiscal transactions for
7 the 2 fiscal years immediately preceding the report due date, the amount of the accumulated cash and
8 securities of the retirement system, and the last fiscal year balance sheet showing the assets and liabilities of
9 the retirement system;

10 (e) keep in convenient form the data that is necessary for actuarial valuation of the various funds of
11 the retirement system and for checking the experience of the retirement system;

12 (f) prepare an annual valuation of the assets and liabilities of the retirement system that includes an
13 analysis of how market performance is affecting the actuarial funding of the retirement system;

14 (g) require the board's actuary to conduct and report on a periodic actuarial investigation into the
15 actuarial experience of the retirement system;

16 (h) prescribe a form for membership application that will provide adequate and necessary information
17 for the proper operation of the retirement system;

18 (i) annually determine the rate of regular interest and interest credit as prescribed in 19-20-501;

19 (j) establish and maintain the funds of the retirement system in accordance with the provisions of part
20 6 of this chapter; and

21 (k) perform other duties and functions as are required to properly administer and operate the
22 retirement system.

23 (2) In discharging its duties, the board, or an authorized representative of the board, may conduct
24 hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue
25 subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence,
26 memoranda, and other records. Subpoenas must be issued and enforced pursuant to 2-4-104.

27 (3) The board may send retirement-related material to employers and the campuses of the Montana
28 university system for delivery to employees. To facilitate distribution, employers and those campuses shall each

1 provide the board with a point of contact who is responsible for distribution of the material provided by the
2 board.

3 (4) The board shall make available to the state administration and veterans' affairs interim committee
4 and to the legislature pursuant to 5-11-210 copies of the annual actuarial valuation and reports required
5 pursuant to subsections (1)(d), (1)(f), and (1)(g).

6 (5) Jurisdiction and venue for judicial review of the board's final administrative decisions is the first
7 judicial district, Lewis and Clark County, unless otherwise stipulated by the parties."
8

9 NEW SECTION. Section 5. Nonapplication of part to tier three. Except as otherwise provided in
10 [sections 18 through ~~26~~ 25], the provisions of this part do not apply to tier three members as provided for in
11 [sections 16 through ~~24~~ 23].
12

13 **Section 6.** Section 19-20-501, MCA, is amended to read:

14 **"19-20-501. Financial administration of money.** The members of the retirement board are the
15 trustees of all money collected for the retirement system, and as trustees, they shall provide for the financial
16 administration of the money as provided in Article VIII, section 15, of the Montana constitution in the following
17 manner:

18 (1) The money must be invested and reinvested by the state board of investments.

19 (2) The retirement board shall annually establish the rate of:

20 (a) regular interest for tier one and tier two members; and

21 (b) interest credit for tier three members.

22 (3) In accordance with the provisions of 19-20-605(8), the amount to be credited to each reserve must
23 be allocated from the interest and other earnings on the money of the retirement system actually realized during
24 the preceding fiscal year, less the amount allocated to administrative expenses. The administrative expenses of
25 the retirement system, less amortization of intangible assets, may not exceed 1.5% of retirement benefits paid.

26 (4) The state treasurer is the custodian of the collected retirement system money and of the securities
27 in which the money is invested.

28 (5) For purposes of Article VIII, section 12, of the Montana constitution, all the reserves established by

1 part 6 of this chapter must be accounts in the pension trust fund type of the treasury fund structure of the state.

2 (6) Benefits and refunds to eligible recipients are payable pursuant to a contract as contained in
3 statute. Unless specifically provided for by statute, the contract does not contain revisions to statutes after the
4 time of retirement or termination."

5

6 **Section 7.** Section 19-20-602, MCA, is amended to read:

7 **"19-20-602. Annuity savings account -- member's contribution.** (1) The annuity savings account is
8 an account in which the contributions for the members to provide for their retirement allowance or benefits must
9 be accumulated in individual accounts for each member.

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

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

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

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

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

19 (ii) for a tier one or tier two member, shall pick up and pay the contributions that would be paid in the
20 manner provided in 19-20-716; and

21 (iii) for a tier one or tier two member, may pick up and pay the contributions that would be payable by
22 the member pursuant to 19-20-415.

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

27 (c) The member's contributions picked up by the employer must be payable from the same source as
28 is used to pay compensation to the member and must be included in the member's earned compensation as

1 defined in 19-20-101. The employer shall deduct from the member's compensation an amount equal to the
2 amount of the member's contributions picked up by the employer and remit the total of the contributions to the
3 retirement board.

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

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

14 **Section 8.** Section 19-20-605, MCA, is amended to read:

15 **"19-20-605. Pension accumulation account -- employer's contribution.** (1) The pension
16 accumulation account is the account in which the reserves for payment of retirement allowances and benefits
17 must be accumulated and from which retirement allowances and benefits must be paid to retirees or their
18 beneficiaries. Employer contributions to the pension accumulation account must be made as provided in 19-20-
19 609 and this section.

20 (2) Except as provided in subsection (3), for each member employed during the whole or part of the
21 preceding payroll period, the employer shall pay into the pension accumulation account an amount equal to
22 9.85% of total earned compensation, plus the supplemental contribution required under 19-20-609.

23 (3) For each member employed by a school district, an education cooperative, a county, or a
24 community college during the whole or part of the preceding payroll period, the employer shall pay into the
25 pension accumulation account an amount equal to 7.47% of total earned compensation, plus the supplemental
26 contribution required under 19-20-609.

27 (4) Beginning July 1, 2013, for each retired member who returns to covered employment under the
28 provisions of 19-20-731 or [section 22] during all or part of the preceding payroll period, the employer shall pay

1 into the pension accumulation account an amount equal to 9.85% of the total earned compensation paid to the
2 retired member, plus the supplemental contribution required under 19-20-609.

3 (5) If the employer is a district or community college district, the trustees shall budget and pay for the
4 employer's contribution under the provisions of 20-9-501.

5 (6) If the employer is the superintendent of public instruction, a public institution of the state of
6 Montana, a unit of the Montana university system, or the Montana state school for the deaf and blind, the
7 legislature shall appropriate to the employer an adequate amount to allow the payment of the employer's
8 contribution.

9 (7) If the employer is a county, the county commissioners shall budget and pay for the employer's
10 contribution in the manner provided by law for the adoption of a county budget and for payments under the
11 budget.

12 (8) All interest and other earnings realized on the money of the retirement system must be credited to
13 the pension accumulation account, and the amount required to allow regular interest or interest credit on the
14 annuity savings account must be transferred to that account from the pension accumulation account.

15 (9) The board may transfer from the pension accumulation account to the expense account an
16 amount necessary to cover expenses of administration."
17

18 **Section 9.** Section 19-20-716, MCA, is amended to read:

19 **"19-20-716. Termination pay to tier one or tier two member.** (1) If a member terminates and
20 receives termination pay at the time of retirement, the member shall select, subject to subsections (4) and (5),
21 one of the following options:

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

26 (b) Option 2--The member may use a yearly amount of the total termination pay added to each of the
27 consecutive years' salary used in the calculation of the member's average final compensation under 19-20-805.
28 To determine the amount of termination pay used in the calculation of average final compensation, termination

1 pay must be divided by the total number of years of creditable service to determine a yearly amount. The
2 member and the employer shall pay contributions on the termination pay according to the rates provided for in
3 19-20-602, 19-20-605(1), 19-20-608, and 19-20-609. For the purposes of this subsection (1)(b), the employer
4 shall also pay as a contribution an amount equal to the termination pay multiplied by the rate established in 19-
5 20-607 that would have been payable by the state as a supplemental contribution. The contributions must be
6 made at the time of termination.

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

9 (2) If a member signs a binding, irrevocable written election for either an option 1 or option 2 benefit at
10 least 90 days prior to the member's termination date, the employee contributions required by this section must
11 be picked up by the employer. The binding, irrevocable written election required by this subsection (2) must be
12 signed by both the member and the employer and must contain statements with regard to the contributions
13 required to be made by the member under subsections (1)(a) and (1)(b) that:

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

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

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

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

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

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

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

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

28 (b) picked up by the employer, except as provided in subsections (4) and (5).

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

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

7 (6) This section does not apply to tier three members.

8

9 **Section 10.** Section 19-20-731, MCA, is amended to read:

10 **"19-20-731. Postretirement employment limitations -- cancellation and recalculation of benefits**

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

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

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

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

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

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

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

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

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

1 (c) A member applying for a retirement allowance or resumption or recalculation of a retirement
2 allowance based on a termination date of January 1, 2014, or later is required to complete the break-in-service
3 period set forth in 19-20-734 before the retired member may be employed in a position reportable to the
4 retirement system.

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

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

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

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

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

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

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

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

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

10 (9) This section does not apply to tier three members."

11

12 **Section 11.** Section 19-20-732, MCA, is amended to read:

13 **"19-20-732. (Temporary) Reemployment of certain retired teachers, specialists, and**
14 **administrators -- procedure -- definitions.** (1) Subject to the provisions of this section:

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

19 (i) the retired member completed 27 or more years of creditable service prior to retirement;

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

21 (iii) each year, prior to employing a retired member, the employer certifies to the office of public

22 instruction and to the retirement board that after having advertised the position for that year the employer has
23 been unable to fill the position because the employer either has received no qualified applications or has not
24 received an acceptance of an offer of employment made to a nonretired teacher, specialist, or administrator.

25 The office of public instruction shall verify that the employer has advertised the position as required under this
26 subsection (1)(a)(iii).

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

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

4 (d) a retired member reemployed under this section is ineligible for active membership under 19-20-
5 302 and is ineligible to receive service credit under any retirement system identified in Title 19; and

6 (e) by September 15 of each even-numbered year, the retirement board shall report to the education
7 interim committee and the state administration and veterans' affairs interim committee, as provided in 5-11-210,
8 regarding the implementation of and results arising from this section.

9 (2) An employer employing a retired member pursuant to this section shall contribute monthly to the
10 retirement system an amount equal to the sum of the contribution rates required by 19-20-602, 19-20-604, 19-
11 20-605, 19-20-607, 19-20-608, and 19-20-609.

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

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

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

18 (6) This section does not apply to tier three members.

19 ~~(6)~~(7) As used in this section, the following definitions apply:

20 (a) "Administrator" means a school principal or district administrator other than a superintendent.

21 (b) "Employer" means a school district as defined in 20-6-101 and 20-6-701 that employs a retired
22 member and is a second-class or third-class elementary district under 20-6-201 or a second-class or third-class
23 high school district under 20-6-301.

24 (c) "Year" means all or any part of a school year. (Terminates June 30, 2025--sec. 4, Ch. 307, L.
25 2019.)

26 **19-20-732. (Effective July 1, 2025) Reemployment of certain retired teachers, specialists and**
27 **administrators -- procedure -- definitions.** (1) Subject to the provisions of this section:

28 (a) a teacher, specialist, or administrator who has been receiving a retirement allowance for no less

1 than 2 months, except a disability retirement allowance pursuant to part 9 of this chapter, may be employed on
2 a full-time basis by an employer for a maximum of 3 years during the lifetime of the retired member without the
3 loss or interruption of any payments or retirement benefits if:

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

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

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

15 (d) a retired member reemployed under this section is ineligible for active membership under 19-20-
16 302 and is ineligible to receive service credit under any retirement system identified in Title 19; and

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

19 (2) An employer employing a retired member pursuant to this section shall contribute monthly to the
20 retirement system an amount equal to the sum of the contribution rates required by 19-20-602, 19-20-604, 19-
21 20-605, 19-20-607, 19-20-608, and 19-20-609.

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

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

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

28 (6) This section does not apply to tier three members.

1 ~~(6)~~(7) As used in this section, the following definitions apply:

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

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

4

5 **Section 12.** Section 19-20-733, MCA, is amended to read:

6 **"19-20-733. Resumption of employment by retired member -- suspension of benefits.** Except as
7 provided in 19-20-732, and subject to 19-20-734, the following provisions apply:

8 (1) If a retired member returns to employment in a position covered by the retirement system and
9 becomes an active contributing member, benefits must be suspended until the member terminates all
10 employment and applies to have benefits reinstated.

11 (2) Upon termination and retirement of a previously retired member who was reinstated to active
12 membership pursuant to 19-20-731 before July 1, 2009:

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

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

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

26 (i) at least 3 years of membership service following suspension of benefits, the member is entitled to
27 resume receiving the suspended benefit in accordance with the retirement benefit option and joint annuitant
28 previously selected, plus an additional benefit based upon the new creditable service and compensation

1 earned. The second benefit must be calculated as provided under 19-20-804 if the member is eligible for a
2 service retirement benefit or under 19-20-802 if the member is eligible for early retirement. The second benefit
3 must be paid under the same retirement benefit option and with the same joint annuitant originally elected.

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

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

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

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

15 (c) If the joint annuitant nominated prior to the member's reemployment under retirement option A, B,
16 or C dies prior to the member rereading, the member will be given the option to select either the normal form
17 retirement benefit or a retirement option as provided in 19-20-702.

18 (4) This section does not apply to tier three members.

19

20 **Section 13.** Section 19-20-801, MCA, is amended to read:

21 **"19-20-801. Eligibility for service retirement.** (1) A tier one member is eligible to receive a service
22 retirement allowance calculated under 19-20-804(1) if the member:

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

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

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

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

28 (b) has been credited with full-time or part-time creditable service in 30 or more years and has

1 attained the age of 55.

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

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

7 (5) A tier three member is eligible to apply for and receive a retirement benefit if the member has at
8 least 5 years of creditable service, has attained 60 years of age, and has terminated all employment in
9 positions that are reportable to the retirement system.

10 ~~(5)(6)~~ A vested member who has attained normal retirement age has a nonforfeitable right to the
11 benefits accrued and payable under the provisions of this chapter, subject to the member's right to a refund of
12 the member's accumulated contributions under 19-20-603."
13

14 **Section 14.** Section 19-20-902, MCA, is amended to read:

15 **"19-20-902. Allowance for disability retirement.** (1) Upon retirement for disability, a tier one or tier
16 two member must receive a disability retirement allowance equal to the greater of:

17 (a) one-sixtieth of the member's average final compensation multiplied by the sum of the number of
18 years of creditable service, including service transferred under 19-20-409; or

19 (b) one-fourth of the member's average final compensation.

20 (2) The earned compensation in the year of termination that is included in the calculation of average
21 final compensation of a member who is awarded a disability retirement allowance prior to the completion of a
22 full year is the compensation, pay, or salary that the member would have received under the member's contract
23 had the member completed the full year. Any termination pay received by the member is limited to the amount
24 actually paid and is not the amount that the member would have earned had the member completed the full
25 year.

26 (3) A vested tier three member who has not reached normal retirement age and who retires on a
27 disability retirement benefit, as provided in 19-20-901, must receive the greater of:

28 (a) the benefit provided under [section 18(1)]; or

1 **(b) 25% of the member's average final compensation.**

2

3 **Section 15.** Section 19-20-1001, MCA, is amended to read:

4 **"19-20-1001. Payments upon death of tier one or tier two member prior to retirement.** (1) If a
5 member dies before retirement:

6 (a) except as provided in subsection (2), a lump-sum refund of the member's account balance must
7 be paid to the member's eligible beneficiary or beneficiaries;

8 (b) if the deceased member was vested and was an active member in the retirement system within 1
9 year before the member's death, the eligible beneficiaries receiving a refund under subsection (1)(a) or a
10 retirement allowance under subsection (2) are entitled to receive in equal shares a \$500 lump-sum death
11 benefit; and

12 (c) subject to 19-20-1009, the sum of \$200 a month must be paid to each minor child of the deceased
13 member until the child reaches 18 years of age.

14 (2) (a) In lieu of the refund provided for in subsection (1)(a), if the deceased member was vested, an
15 eligible designated beneficiary who is an individual may elect to receive the beneficiary's interest as a
16 retirement allowance for the beneficiary's lifetime. The retirement allowance must be determined as prescribed
17 in 19-20-804, without reference to 19-20-715(2)(a), in the same manner as if the member elected the option A
18 joint and survivor annuity optional allowance provided for in 19-20-702(2).

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

20 (i) the first of the month following the date of death; or

21 (ii) the effective date of the member's retirement, as acknowledged in writing by the retirement system
22 before the member's death.

23 (c) (i) If more than one eligible beneficiary elects to receive a retirement allowance, each is entitled to
24 an equal share of the benefit.

25 (ii) In the event that all eligible beneficiaries who elected a retirement allowance die, the member's
26 account balance, if any, will be paid out to the alternate beneficiary of the last surviving eligible beneficiary who
27 elected a retirement allowance under subsection (2)(a).

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

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Section 16. Section 19-20-1002, MCA, is amended to read:

"19-20-1002. Payments upon death of tier one or tier two retiree. (1) In the event of the death of a retired member:

(a) a lump-sum death benefit of \$500 is payable to the joint annuitant or in equal shares to the deceased retiree's eligible beneficiary or beneficiaries receiving benefits under either subsection (2), (3), or (4) and is in addition to those benefits; and

(b) subject to 19-20-1009, the sum of \$200 a month must be paid to each minor child of the deceased retiree until the child reaches 18 years of age.

(2) If the member was receiving a normal form retirement allowance, a lump-sum refund of the member's account balance must be paid to the eligible beneficiary or beneficiaries in equal shares.

(3) If the member was receiving a joint and survivor annuity optional retirement allowance:

(a) monthly benefits must continue to be paid to the joint annuitant; or

(b) if there is no surviving joint annuitant, a lump-sum refund of the member's account balance must be paid to the member's alternate beneficiary or beneficiaries in equal shares.

(4) If the retired member was receiving a 10-year or 20-year period certain retirement allowance, until the period has expired:

(a) if the eligible beneficiary is one or more individuals, the monthly benefits must continue to be paid to the eligible beneficiary or beneficiaries in equal shares. If there is more than one eligible beneficiary, upon the death of one eligible beneficiary, the benefit amount payable to the deceased beneficiary must be redistributed in equal shares to the surviving eligible beneficiaries. If all eligible beneficiaries die before the period has expired, a lump-sum amount actuarially determined to be the present value of all monthly benefits remaining to be paid over the period must be paid to the alternate beneficiary of the last surviving eligible beneficiary.

(b) if the eligible beneficiary is the deceased retiree's estate or trust, a lump-sum amount actuarially determined to be the present value of all monthly benefits remaining to be paid over the period must be paid to the eligible beneficiary.

(5) This section does not apply to tier three members."

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NEW SECTION. Section 17. Tier three member contributions -- written election required for additional contribution -- failure to elect -- effect of election. (1) A tier three member shall make the normal contributions to the retirement system as required in 19-20-602.

(2) In addition to the normal contribution rate, a tier three member may elect to make an additional contribution of 0.5% of the member's earned compensation.

(3) Elections made pursuant to this section must be made at the beginning of employment on a form prescribed by the board.

(4) A member failing to make an election prescribed by this section must be considered to have elected not to make the additional contribution.

(5) An election under this section, including the default election pursuant to subsection (4), is a one-time irrevocable election.

(6) A member who becomes inactive after an election under this section and who returns to active membership is covered by the member's previous election, including a default election.

(7) (a) A member who elects the additional contribution and has accrued at least 30 years of creditable service at the time of retirement, withdrawal, or death must receive a contribution match on the additional 0.5% of earned compensation contributed by the member.

(b) A member who elects the additional contribution and has accrued less than 30 years of creditable service at the time of retirement, withdrawal, or death may not receive a contribution match on the additional 0.5% of earned contribution contributed by the member.

NEW SECTION. Section 18. Tier three retirement, disability, and death benefits -- eligibility for benefits. (1) The normal form benefit for a tier three member is a monthly annuity, which must be the actuarial equivalent of the sum of:

- (a) the member's accumulated contributions; and
- (b) subject to [section 19], a retirement system match of the member's accumulated contributions.

(2) (a) A member may elect to receive one of the optional allowances described in 19-20-702(2) and (3) in lieu of the normal form benefit.

1 (b) A member electing an optional allowance is subject to the provisions of 19-20-702.

2 (3) (a) Except as provided in subsection (3)(b), if a vested member dies before retirement, a
3 designated beneficiary may elect to receive a lump-sum distribution of the sum of the member's accumulated
4 contributions account balance and contribution match.

5 (b) In lieu of the lump-sum distribution provided for in subsection (3)(a), the designated beneficiary
6 may elect to receive a retirement allowance determined in the same manner as if the member elected joint and
7 survivor annuity Option A provided for in 19-20-702.

8 (4) If a member who qualifies for benefits under 19-20-902(3) or subsection (3) of this section has
9 less than 5 years of full-time service during the 5 years immediately preceding the member's termination or
10 death, the member's earned compensation for purposes of calculating a disability or survivor benefit must be
11 determined as provided in 19-20-805(2)(b).

12
13 NEW SECTION. Section 19. Tier three member vesting schedule for contribution match. ~~(1) If~~
14 ~~this subsection is approved by the internal revenue service pursuant to [section 24], a~~ A tier three member has
15 a right to a retirement system match of the member's accumulated contributions according to the following
16 schedule:

17 ~~(a)(1)~~ (1) For 5 years of creditable service, the member must receive a 25% match.

18 ~~(b)(2)~~ (2) For 6 through 10 years of creditable service, the member must receive an additional 5% match
19 for each full year of service.

20 ~~(c)(3)~~ (3) For 11 through 15 years of creditable service, the member must receive an additional 10%
21 match for each full year of service.

22 ~~(d)(4)~~ (4) A member with 15 or more years of creditable service must receive a 100% retirement system
23 match of the member's accumulated contributions.

24 (5) A vested member who has attained normal retirement age must receive a 100% retirement
25 system match of the member's accumulated contributions.

26 ~~(2) If the provisions of subsection (1) are not approved by the internal revenue service pursuant to~~
27 ~~[section 24], a tier three member has a right to a retirement system match of 100% of the member's~~
28 ~~accumulated contributions after the member has earned at least 10 years of creditable service.~~

1

2 NEW SECTION. Section 20. Interest credit for tier three -- minimum and maximum interest

3 credit rates. (1) Each month, the board shall credit to each tier three member's annuity savings account an
4 interest credit, which must be compounded annually.

5 (2) The board shall set the rate of the interest credit for the tier three members ~~annually pursuant to~~
6 ~~the following requirements: at 4.5%.~~

7 ~~(a) The rate may not be lower than 4% or greater than 9%.~~

8 ~~(b) The board may not set the rate higher than 4% if the retirement system was judged to be~~
9 ~~actuarially unsound as of the date of the most recent actuarial valuation.~~

10

11 NEW SECTION. Section 21. Tier three postretirement employment. (1) A retired tier three

12 member who has received at least one monthly retirement benefit may be reemployed by an employer without
13 loss of retirement benefits.

14 (2) An employer hiring a retired tier three member is subject to 19-20-605(4).

15

16 NEW SECTION. Section 22. Tier three procedure for purchase of previous service credit. A tier

17 three member who wishes to redeposit amounts previously withdrawn from the retirement system may deposit
18 those amounts with the retirement system either by a lump-sum payment or installment payments as agreed to
19 between the board and the member.

20

21 NEW SECTION. Section 23. Legislative oversight committee -- reports and recommendations

22 by board. (1) The state administration and veterans' affairs interim committee shall oversee the implementation
23 of the tier three provided for in [sections 17 through 22] and act as an oversight committee on matters of policy.

24 (2) The teachers' retirement board shall consult with and provide regular updates to the committee
25 and shall make recommendations regarding the design and implementation of tier three.

26

27 ~~NEW SECTION. Section 24. Board to seek commissioner's ruling or determination --~~

28 ~~certification that plan is effective.~~ (1) The teachers' retirement board shall, as soon as possible, request in

1 ~~writing a ruling or determination from the commissioner of the internal revenue service as to whether the tier~~
 2 ~~established pursuant to [this act] affects the status of the retirement system as a "qualified plan" pursuant to~~
 3 ~~section 401(a) of the Internal Revenue Code. The board shall seek the ruling or determination first based on the~~
 4 ~~vesting schedule provided for in [section 19(1)]. If that schedule is not approved, then the board shall seek the~~
 5 ~~ruling or determination based on the vesting schedule provided for in [section 19(2)].~~

6 ~~(2) The board shall certify to the governor and the secretary of state the date on which the tier~~
 7 ~~established pursuant to [sections 17 through 22] receives a favorable ruling or determination from the internal~~
 8 ~~revenue service. The board shall provide a copy of the certification to the code commissioner.~~

9
 10 **NEW SECTION. Section 24. Codification instruction.** (1) [Section 5] is intended to be codified as
 11 an integral part of Title 19, chapter 20, part 8, and the provisions of Title 19, chapter 20, part 8, apply to [section
 12 5].

13 (2) [Sections 17 through ~~24~~ 23] are intended to be codified as an integral part of Title 19, chapter 20,
 14 and the provisions of Title 19, chapter 20, apply to [sections 17 through ~~24~~ 23].

15
 16 ~~**NEW SECTION. Section 26. Effective dates.** (1) Except as provided in subsection (2), [this act] is~~
 17 ~~effective on certification and on notification to the code commissioner pursuant to [section 24].~~

18 ~~(2) [Sections 23 through 25] and this section are effective on passage and approval.~~

19
 20 **NEW SECTION. Section 25. Effective date.** [This act] is effective July 1, 2023.

21 - END -