

HOUSE BILL NO. 377

INTRODUCED BY T. WOODS

BY REQUEST OF THE OFFICE OF BUDGET AND PROGRAM PLANNING

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5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING ADDITIONAL FUNDING FOR THE TEACHERS'  
6 RETIREMENT SYSTEM; CREATING TWO MEMBERSHIP TIERS WITHIN THE SYSTEM; INCREASING THE  
7 NORMAL CONTRIBUTION RATE FOR NEW MEMBERS; ENACTING A SUPPLEMENTAL CONTRIBUTION  
8 RATE FOR CURRENT MEMBERS; AUTHORIZING THE TEACHERS' RETIREMENT BOARD TO IMPOSE A  
9 SUPPLEMENTAL CONTRIBUTION RATE FOR TIER TWO MEMBERS AND EMPLOYERS; AUTHORIZING THE  
10 TEACHERS' RETIREMENT BOARD TO INCREASE OR DECREASE ANY SUPPLEMENTAL CONTRIBUTION  
11 RATE ACCORDING TO CERTAIN ACTUARIALLY DETERMINED FUNDING STANDARDS; REVISING HOW  
12 AVERAGE FINAL COMPENSATION IS CALCULATED FOR NEW MEMBERS; REVISING ELIGIBILITY FOR  
13 EARLY AND NORMAL RETIREMENT AND FOR DEATH AND DISABILITY BENEFITS FOR NEW MEMBERS;  
14 ESTABLISHING AN INCREASED NORMAL RETIREMENT BENEFIT FOR CERTAIN NEW MEMBERS;  
15 REVISING THE GUARANTEED ANNUAL BENEFIT ADJUSTMENT FOR NEW AND CURRENT MEMBERS;  
16 DECREASING THE CAP ON SCHOOL DISTRICT RETIREMENT FUND OPERATING RESERVES AND  
17 PROVIDING THAT ANY RESERVES IN EXCESS OF THE CAP BE PAID TO THE TEACHERS' RETIREMENT  
18 SYSTEM; STATUTORILY APPROPRIATING MONEY FROM THE PUBLIC SCHOOL FUND GUARANTEE  
19 ACCOUNT TO THE TEACHERS' RETIREMENT SYSTEM; SPECIFYING A TIMETABLE FOR THE PAYMENT  
20 OF STATE TRANSPORTATION REIMBURSEMENT TO THE SCHOOL DISTRICTS; AMENDING SECTIONS  
21 19-20-101, 19-20-208, 19-20-409, 19-20-427, 19-20-602, 19-20-605, 19-20-621, 19-20-716, 19-20-719,  
22 19-20-732, 19-20-801, 19-20-802, 19-20-804, 19-20-805, 19-20-901, 19-20-1001, 20-9-501, 20-9-622, AND  
23 20-10-145, MCA; AND PROVIDING AN EFFECTIVE DATE."

24  
25 WHEREAS, Article VIII, section 15, of the Montana Constitution requires that "Public retirement systems  
26 shall be funded on an actuarially sound basis"; and

27 WHEREAS, Article VIII, section 15, of the Montana Constitution requires that "Public retirement system  
28 assets, including income and actuarially required contributions, shall not be encumbered, diverted, reduced, or  
29 terminated and shall be held in trust to provide benefits to participants and their beneficiaries and to defray  
30 administrative expenses"; and



1           WHEREAS, the unprecedented collapse of the financial markets in 2008 through 2009 and the  
2 subsequent slow rate of economic recovery has resulted in little or no prospect that current statutory contribution  
3 rates together with future market returns will be sufficient to fund the Teachers' Retirement System on an  
4 actuarially sound basis, and current contributions remain insufficient to pay the past and future accruals of  
5 retirement benefits for members currently in the system; and

6           WHEREAS, failure to return the system to a position of actuarially sound funding places the benefits to  
7 be paid to current system participants in jeopardy and results in collection of employee contributions for which  
8 future benefits may not be guaranteed; and

9           WHEREAS, the current and increasing level of unfunded liabilities has the potential to compromise the  
10 credit ratings of the state of Montana and of local government entities, including public school districts; and

11           WHEREAS, because reasonable increases in employer contributions and reasonable reductions in  
12 benefits for future participants alone will not be sufficient to return the system to a position of actuarially sound  
13 funding, increased contributions for current and future participants and reduced benefits for future participants  
14 are also necessary to return the system to a position of actuarially sound funding; and

15           WHEREAS, section 19-20-501, MCA, provides that benefits and refunds to eligible recipients are payable  
16 pursuant to a contract as contained in statute, and this proposed legislation does not diminish the current or future  
17 pension benefits promised to current system participants; and

18           WHEREAS, during the past two legislative sessions and interims, the Legislature, interim committees,  
19 the retirement system board and staff, and the Governor's office have analyzed a range of alternatives for  
20 returning the system to a position of actuarially sound funding without raising contract impairment issues for  
21 current members, but recent actuarial analysis continues to show that the system remains actuarially unsound;  
22 and

23           WHEREAS, due to significant strains on the Montana economy, state and local government budgets, and  
24 taxpayers, a modest supplemental contribution rate increase of 1% applied to current retirement system  
25 members, with appropriate mechanisms to reduce or terminate the supplemental contribution rate as system  
26 funding improves, in conjunction with additional employer and state contributions, is, pursuant to the language  
27 of *U.S. Trust Company of New York v. New Jersey*, 431 U.S. 1 (1977), concerning contract impairment,  
28 reasonable and necessary and is the least impairing alternative available to the Legislature as it seeks to fulfill  
29 its constitutional obligation to ensure the retirement system is funded in an actuarially sound manner.

30

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

2

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

4 **"19-20-101. Definitions.** As used in this chapter, unless the context clearly indicates otherwise, the  
5 following definitions apply:

6 (1) "Accumulated contributions" means the sum of all the amounts deducted from the compensation of  
7 a member or paid by a member and credited to the member's individual account in the annuity savings account,  
8 together with interest. Regular interest must be computed and allowed to provide a benefit at the time of  
9 retirement.

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

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

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

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

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

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

22 (b) Earned compensation does not include:

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

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

26 (A) professional membership dues;

27 (B) maintenance;

28 (C) housing;

29 (D) day care;

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

- 1 (F) any similar form of maintenance, allowance, or expenses;
- 2 (iii) the imputed value of health, life, or disability insurance or any other fringe benefits;
- 3 (iv) any noncash benefit provided by an employer to or on behalf of a member;
- 4 (v) termination pay unless included pursuant to 19-20-716;
- 5 (vi) compensation paid to a member from a plan for the deferral of compensation under section 457(f)
- 6 of the Internal Revenue Code, 26 U.S.C. 457(f);
- 7 (vii) payment for sick, annual, or other types of leave paid to a member prior to termination from
- 8 employment or accrued in excess of that normally allowed;
- 9 (viii) incentive or bonus payments paid to a member that are not part of a series of annual payments; or
- 10 (ix) any similar payment or reimbursement made to or on behalf of a member by an employer.
- 11 (c) Adding a direct employer-paid or noncash benefit to an employee's contract or subtracting the same
- 12 or a similar amount as a pretax deduction is considered a fringe benefit and not earned compensation.
- 13 (8) "Employer" means:
- 14 (a) the state of Montana;
- 15 (b) a public school district, as provided in 20-6-101 and 20-6-701;
- 16 (c) the office of public instruction;
- 17 (d) the board of public education;
- 18 (e) an education cooperative;
- 19 (f) the Montana school for the deaf and blind, as described in 20-8-101;
- 20 (g) the Montana youth challenge program, as defined in 10-1-101;
- 21 (h) a state youth correctional facility, as defined in 41-5-103;
- 22 (i) the Montana university system;
- 23 (j) a community college; or
- 24 (k) any other agency or subdivision of the state that employs a person who is designated a member of
- 25 the retirement system pursuant to 19-20-302.
- 26 (9) "Full-time service" means service that is:
- 27 (a) at least 180 days in a fiscal year;
- 28 (b) at least 140 hours a month during at least 9 months in a fiscal year; or
- 29 (c) at least 1,080 hours in a fiscal year under an alternative school calendar adopted by a school board
- 30 and reported to the office of public instruction as required by 20-1-302. The standard for full-time service for a

1 school district operating under an alternative school calendar must be applied uniformly to all employees of the  
2 school district required to be reported to the retirement system.

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

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

6 (12) "Member" means a person who has an individual account in the annuity savings account. Unless  
7 otherwise specified, "member" refers to a tier one member or a tier two member. An active member is a person  
8 included under the provisions of 19-20-302. An inactive member is a person included under the provisions of  
9 19-20-303.

10 (13) "Normal form" or "normal form benefit" means a monthly retirement benefit payable during the  
11 lifetime of the retired member.

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

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

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

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

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

23 (19) "Retirement board" or "board" means the retirement system's governing board provided for in  
24 2-15-1010.

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

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

29 (22) "Termination" or "terminate" means that the member has severed the employment relationship with  
30 the member's employer and that all, if any, payments due upon termination of employment, including but not

1 limited to accrued sick and annual leave balances, have been paid to the member.

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

5 (b) Termination pay does not include:

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

8 (ii) amounts that are payable to a member from a plan for the deferral of compensation under section  
9 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f).

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

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

14 ~~(24)~~(26) "Vested" means that a member has been credited with at least 5 full years of membership  
15 service upon which contributions have been made and has a right to a future retirement benefit.

16 ~~(25)~~(27) "Written application" or "written election" means a written instrument, required by statute or the  
17 rules of the board, properly signed and filed with the board, that contains all the required information, including  
18 documentation that the board considers necessary."

19

20 **Section 2.** Section 19-20-208, MCA, is amended to read:

21 **"19-20-208. Duties and liability of employer.** (1) Each employer shall:

22 (a) pick up the ~~contribution~~ CONTRIBUTIONS of each employed member at the rate prescribed by pursuant  
23 to 19-20-602 and [section 6] and transmit the ~~contribution~~ CONTRIBUTIONS each month to the executive director  
24 of the retirement board;

25 (b) transmit to the executive director of the retirement board the employer's ~~contribution~~ CONTRIBUTIONS  
26 prescribed by 19-20-605 AND [SECTION 8], at the time that the employee contributions are transmitted;

27 (c) keep records and, as required by the retirement board, furnish information to the board that is  
28 required in the discharge of the board's duties;

29 (d) upon the employment of a person who is required to become a member of the retirement system,  
30 inform the person of the rights and obligations relating to the retirement system;

1 (e) each month, report the name, social security number, time worked, and gross earnings of each  
2 retired member of the system who has been employed in a position that is reportable to the retirement system  
3 pursuant to 19-20-731;

4 (f) whenever applicable, inform an employee of the right to elect to participate in the optional retirement  
5 program under Title 19, chapter 21;

6 (g) at the request of the retirement board, certify the names of all persons who are eligible for  
7 membership or who are members of the retirement system;

8 (h) notify the retirement board of the employment of a person eligible for membership and forward the  
9 person's membership application to the board; and

10 (i) if the employer has converted to earned compensation amounts excluded from earned compensation,  
11 for each retiring member, certify to the board the amounts reported to the system in each of the 5 years preceding  
12 the member's retirement.

13 (2) An employer that fails to timely or accurately report the employment of, time worked by, or  
14 compensation paid to a retired member as required under subsection (1)(e) is jointly and severally liable with the  
15 retired member for repayment to the retirement system of retirement benefits paid to which the member was not  
16 entitled, plus interest."

17

18 **Section 3.** Section 19-20-409, MCA, is amended to read:

19 **"19-20-409. Transfer of service credits and contributions from public employees' retirement**  
20 **system.** (1) An active member may at any time before retirement file a written application with the retirement  
21 board to purchase all of the member's previous creditable service in the public employees' retirement system.  
22 The amount that must be paid to the retirement system to purchase this service under this section is the sum of  
23 subsections (2) and (3).

24 (2) The public employees' retirement system shall transfer to the teachers' retirement system an amount  
25 equal to 72% of the amount paid by the member.

26 (3) The member shall pay either directly or by transferring contributions on account with the public  
27 employees' retirement system an amount equal to the member's accumulated contributions at the time that active  
28 membership was terminated, plus accrued interest. Interest must be calculated from the date of termination until  
29 a transfer is received by the retirement system, based on the interest tables in use by the public employees'  
30 retirement system.

1 (4) A member who purchases service from the public employees' retirement system in the teachers'  
2 retirement system must have completed 5 years of membership service in the teachers' retirement system to  
3 receive credit or purchase military service, out-of-state service, employment while on leave, and private school  
4 employment.

5 (5) The retirement board shall determine the service credits that may be transferred.

6 (6) If an active member who also has creditable service in the public employees' retirement system  
7 before becoming a member of the teachers' retirement system dies before purchasing this service in the teachers'  
8 retirement system and if the member's service credits from both systems, when combined, entitle the member's  
9 beneficiary to a death benefit, the payment of the death benefit is the liability of the teachers' retirement system.  
10 Before payment of the death benefit, the public employees' retirement board must transfer to the teachers'  
11 retirement system the contributions necessary to purchase this service in the teachers' retirement system as  
12 provided in subsections (2) and (3).

13 (7) (a) If the teachers' retirement board determines that an individual's membership was erroneously  
14 classified and reported to the public employees' retirement system, the public employees' retirement board shall  
15 transfer to the teachers' retirement system the member's accumulated contributions and service, together with  
16 employer contributions plus interest.

17 (b) For the period of time that the employer contributions are held by the public employees' retirement  
18 system, interest paid on employer contributions transferred under this subsection (7) must be calculated at the  
19 short-term investment pool rate earned by the board of investments in the fiscal year preceding the transfer  
20 request.

21 (c) Any employee and employer contributions due as calculated in 19-20-602, ~~and 19-20-605~~, and  
22 [section 6], AND [SECTION 8], plus interest, are the liability of the employee and the employing entity where the error  
23 occurred.

24 (8) A member who participated in the public employees' retirement system defined contribution plan  
25 provided for in Title 19, chapter 3, part 21, may purchase creditable service for the time spent as a participant  
26 in the defined contribution plan if:

27 (a) the member has 5 years of membership service and has completed at least 1 full year in the teachers'  
28 retirement system following the member's public employees' retirement system service;

29 (b) for each full year or portion of a year to be purchased pursuant to this subsection (8), the member  
30 contributes the actuarial cost of the service based on the most recent valuation of the system; and



1 (c) the member has withdrawn the member's money in the member's public employees' retirement  
 2 system defined contribution plan account or has rolled over the amount required to purchase service in  
 3 accordance with this subsection (8).

4 (9) Creditable service purchased under subsection (8) must be determined according to the laws and  
 5 rules governing service credit in the public employees' retirement system."  
 6

7 **Section 4.** Section 19-20-427, MCA, is amended to read:

8 **"19-20-427. Redeposit of contributions previously withdrawn.** (1) In addition to the ~~normal~~  
 9 contributions required under 19-20-602 and [section 6], subject to the approval of the retirement board, and to  
 10 the extent permitted by section 415(k)(3) of the Internal Revenue Code, a member may redeposit in the annuity  
 11 savings account, by a single payment or by an increased rate of contribution, an amount equal to the  
 12 accumulated contributions that the member has previously withdrawn, plus interest paid as follows:

13 (a) if a written application to purchase service is signed prior to July 1, 2012, at the rate the contributions  
 14 would have earned had the contributions not been withdrawn; or

15 (b) if a written application to purchase service is signed on or after July 1, 2012, at the actuarially  
 16 assumed interest rate in effect on the date the written application is signed.

17 (2) The redeposit must be made in accordance with 19-20-415."  
 18

19 **Section 5.** Section 19-20-602, MCA, is amended to read:

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

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

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

27 ~~(2)(3)~~ Contributions under this section and [section 6] ~~to and payments from~~ the annuity savings account  
 28 must be made in the following manner:

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

30 (i) shall pick up and pay the contributions that would be payable by the member under this subsection

1 ~~(2)~~ (3) for service rendered after June 30, 1985;

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

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

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

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

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

18 ~~(3)~~(4) The accumulated contributions of a member withdrawn by the member or paid to the member's  
19 estate or to the member's designated beneficiary in event of the member's death must be paid from the annuity  
20 savings account. Upon the retirement of a member, the member's accumulated contributions must be transferred  
21 from the annuity savings account to the pension accumulation account."  
22

23 **NEW SECTION. Section 6. Member supplemental contribution -- actuarially determined**  
24 **adjustments -- effective dates.** (1) (a) Subject to subsections (1)(b) and (1)(c), a tier one member shall  
25 contribute to the retirement system a supplemental amount equal to 1% of the member's earned compensation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (3) After the board has actuarially determined the need to impose, increase, or decrease a supplemental  
27 contribution rate under this section, the imposition, increase, or decrease is effective on the first day of July  
28 following the board's determination.

29

30 **SECTION 7. SECTION 19-20-605, MCA, IS AMENDED TO READ:**

1           **"19-20-605. Pension accumulation account -- employer's contribution.** (1) The pension  
2 accumulation account is the account in which the reserves for payment of retirement allowances and benefits  
3 must be accumulated and from which retirement allowances and benefits must be paid to retirees or their  
4 beneficiaries. ~~Contributions to and payments from~~ Employer contributions to the pension accumulation account  
5 must be made as provided in [section 8] and this section.

6           (2) Except as provided in subsection (3), for each member employed during the whole or part of the  
7 preceding payroll period, the employer shall pay into the pension accumulation account an amount equal to  
8 9.85% of total earned compensation, plus the supplemental contribution required under [section 8].

9           (3) For each member employed by a school district, an education cooperative, a county, or a community  
10 college during the whole or part of the preceding payroll period, the employer shall pay into the pension  
11 accumulation account an amount equal to 7.47% of total earned compensation, plus the supplemental  
12 contribution required under [section 8].

13           (4) Beginning July 1, 2013, for each retired member who returns to covered employment under the  
14 provisions of 19-20-731 during all or part of the preceding payroll period, the employer shall pay into the pension  
15 accumulation account an amount equal to 9.85% of the total earned compensation paid to the retired member,  
16 plus the supplemental contribution required under [section 8].

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

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

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

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

28           (9) The board may transfer from the pension accumulation account to the expense account an amount  
29 necessary to cover expenses of administration."  
30

1 NEW SECTION. SECTION 8. EMPLOYER'S SUPPLEMENTAL CONTRIBUTION -- ACTUARIALLY DETERMINED

2 ADJUSTMENTS. (1) (A) SUBJECT TO SUBSECTIONS (1)(B) AND (1)(C), EACH EMPLOYER SHALL CONTRIBUTE TO THE  
 3 RETIREMENT SYSTEM A SUPPLEMENTAL AMOUNT EQUAL TO 1% OF TOTAL EARNED COMPENSATION OF EACH MEMBER  
 4 EMPLOYED DURING THE WHOLE OR PART OF THE PRECEDING PAYROLL PERIOD.

5 (B) THE BOARD MAY DECREASE THE EMPLOYER'S SUPPLEMENTAL CONTRIBUTION IF:

6 (I) THE AVERAGE FUNDED RATIO OF THE SYSTEM BASED ON THE LAST THREE ACTUARIAL VALUATIONS IS EQUAL  
 7 TO OR GREATER THAN 90%; AND

8 (II) THE PERIOD NECESSARY TO AMORTIZE ALL LIABILITIES OF THE SYSTEM BASED ON THE MOST RECENT ANNUAL  
 9 ACTUARIAL VALUATION IS LESS THAN 15 YEARS; AND

10 (III) THE GUARANTEED ANNUAL BENEFIT ADJUSTMENT HAS BEEN INCREASED TO THE MAXIMUM ALLOWED UNDER  
 11 19-20-719.

12 (C) FOLLOWING ONE OR MORE DECREASES IN THE SUPPLEMENTAL CONTRIBUTION RATE PURSUANT TO  
 13 SUBSECTION (1)(B), THE BOARD MAY INCREASE THE SUPPLEMENTAL CONTRIBUTION TO A RATE NOT TO EXCEED 1% IF:

14 (I) THE AVERAGE FUNDED RATIO OF THE SYSTEM BASED ON THE LAST THREE ANNUAL ACTUARIAL VALUATIONS  
 15 IS EQUAL TO OR LESS THAN 80%; AND

16 (II) THE PERIOD NECESSARY TO AMORTIZE ALL LIABILITIES OF THE SYSTEM BASED ON THE MOST RECENT ANNUAL  
 17 ACTUARIAL VALUATION IS GREATER THAN 20 YEARS.

18 (2) AFTER THE BOARD HAS ACTUARIALLY DETERMINED THE NEED TO IMPOSE, INCREASE, OR DECREASE A  
 19 SUPPLEMENTAL CONTRIBUTION RATE UNDER THIS SECTION, THE IMPOSITION, INCREASE, OR DECREASE IS EFFECTIVE ON  
 20 THE FIRST DAY OF JULY FOLLOWING THE BOARD'S DETERMINATION.

21  
 22 SECTION 9. SECTION 19-20-621, MCA, IS AMENDED TO READ:

23 **"19-20-621. Montana university system optional retirement program supplemental contributions.**

24 (1) Each employer within the university system with employees participating in the optional retirement program  
 25 under Title 19, chapter 21, shall contribute to the teachers' retirement system a supplemental employer  
 26 contribution sufficient to amortize, by July 1, 2033, the past service liability of the teachers' retirement system for  
 27 the university system members.

28 (2) The optional retirement program supplemental employer contribution as a percentage of the total  
 29 compensation of all employees participating in the program is:

30 ~~—— (a) 4.04% beginning July 1, 2001, through June 30, 2007; and~~

- 1 ~~\_\_\_\_\_ (b) 4.72% beginning July 1, 2007~~  
 2 (a) 5.72% beginning July 1, 2013, through June 30, 2014;  
 3 (b) 6.72% beginning July 1, 2014, through June 30, 2015;  
 4 (c) 7.62% beginning July 1, 2015, through June 30, 2016;  
 5 (d) 8.72% beginning July 1, 2016, through June 30, 2017; and  
 6 (e) 9.04% beginning July 1, 2017.

7 (3) The board shall periodically review the supplemental employer contribution rate and recommend  
 8 adjustments to the legislature as needed to maintain the amortization of the university system's past service  
 9 liability by July 1, 2033."

10  
 11 **Section 10.** Section 19-20-716, MCA, is amended to read:

12 **"19-20-716. Termination pay.** (1) If a member terminates and receives termination pay at the time of  
 13 retirement, the member shall select, subject to subsections (5) and (6), by signing a binding, irrevocable written  
 14 election at least 90 days before the member's termination date, one of the following options:

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

19 (b) Option 2--The member may use a yearly amount of the total termination pay added to each of the  
 20 3 consecutive years' salary used in the calculation of the member's average final compensation. To determine  
 21 the amount of termination pay used in the calculation of average final compensation, termination pay must be  
 22 divided by the total number of years of creditable service to determine a yearly amount. The member and the  
 23 employer shall pay contributions on the termination pay according to the rates provided for in 19-20-602 and,  
 24 19-20-605(1), ~~and [section 6], AND [SECTION 8]~~. For the purposes of this subsection (1)(b), the employer shall also  
 25 pay as a contribution an amount equal to the termination pay multiplied by the rate established in 19-20-607 that  
 26 would have been payable by the state as a supplemental contribution. The contributions must be made at the  
 27 time of termination.

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

30 (2) A binding, irrevocable written election required by this section must be signed by both the member

1 and the employer at least 90 days prior to the member's termination date and must contain statements with  
2 regard to the contributions required to be made by the member under subsections (1)(a) and (1)(b) that:

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

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

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

9 (d) the effective date of the pickup is the date that the irrevocable written election is signed by both the  
10 member and employer. The effective date must be at least 90 days prior to the date of the member's termination.

11 The pickup does not apply to a contribution made before the effective date of the pickup.

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

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

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

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

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

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

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

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

26

27 **SECTION 11. SECTION 19-20-719, MCA, IS AMENDED TO READ:**

28 **"19-20-719. Guaranteed annual benefit adjustment -- rulemaking.** (1) On January 1 of each year,  
29 the retirement allowance payable to each ~~recipient~~ tier one member or benefit recipient of a tier one member who  
30 is eligible under subsection ~~(2)~~ (3) must be increased by ~~4.5%~~ the amount provided in either subsection (1)(a)

1 or subsection (1)(b) as follows:

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

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

7 (2) On January 1 of each year, the retirement allowance payable to each tier two member or benefit  
8 recipient of a tier two member who is eligible under subsection (3) must be increased as follows:

9 (a) by 1.5% if the system's unfunded liabilities amortize in 25 years or less as of the system's latest  
10 actuarial valuation and the increase is not projected to cause the amortization period to be greater than 25 years;

11 or

12 (b) by 1.5% minus 0.1% for each year the amortization period of the system's unfunded liabilities is  
13 greater than 25 years as of the system's latest annual actuarial valuation. If the amortization period is 40 years  
14 or greater, the retirement allowance may not be increased.

15 ~~(2)~~(3) A benefit recipient is eligible for and must receive the annual benefit adjustment provided for in  
16 this section if ~~the retiree has received~~ at least 36 monthly retirement benefit payments have been made prior to  
17 January 1 of the year in which the adjustment is to be made."  
18

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

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

22 (a) a teacher, specialist, or administrator who has been receiving a retirement allowance for no less than  
23 2 months, except a disability retirement allowance pursuant to part 9 of this chapter, may be employed on a  
24 full-time basis by an employer for a maximum of 3 years during the lifetime of the retired member without the loss  
25 or interruption of any payments or retirement benefits if:

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

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

28 (iii) each year, prior to employing a retired member, the employer certifies to the office of public instruction  
29 and to the retirement board that after having advertised the position for that year the employer has been unable  
30 to fill the position because the employer either has received no qualified applications or has not received an



1 acceptance of an offer of employment made to a nonretired teacher, specialist, or administrator;

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

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

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

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

11 (2) An employer employing a retired member pursuant to this section shall contribute monthly to the  
12 retirement system an amount equal to the sum of the contribution rates required by 19-20-602, 19-20-604,  
13 19-20-605, and 19-20-607, and [section 6]. AND [SECTION 8].

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

16 (4) If reemployed in a position covered by a collective bargaining agreement pursuant to Title 39, chapter  
17 31, the retired member is subject to all the terms and conditions of the agreement and is entitled to all the benefits  
18 and protections of the agreement.

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

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

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

22 (b) "Year" means all or any part of a school year. (Terminates June 30, 2015--sec. 5, Ch. 129, L. 2009.)"

23

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

25 **"19-20-801. Eligibility for service retirement. (1) A tier one member ~~who~~ is eligible to receive a service**  
26 **retirement 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 ~~who~~ has attained the age of 60;**  
28 **or**

29 **(b) has been credited with full-time or part-time creditable service in 25 or more years ~~may retire from~~**  
30 **service if the member has.**

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

3 (a) has been credited with at least 5 full years of creditable service and has attained the age of 60; or  
 4 (b) has been credited with full-time or part-time creditable service in 30 or more years and has attained  
 5 the age of 55.

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

8 (4) To receive a retirement allowance under 19-20-804, the member must have terminated employment  
 9 in all positions from which the member is eligible to retire and files ~~files~~ must file a written application with the  
 10 retirement board ~~a written application.~~"

11  
 12 **Section 14.** Section 19-20-802, MCA, is amended to read:

13 **"19-20-802. Early retirement.** (1) (a) A tier one member who is not eligible for service retirement but  
 14 who has ~~been credited with~~ at least 5 years of creditable service and ~~who~~ has attained the age of 50 ~~may retire~~  
 15 ~~from service and be~~ is eligible for an early retirement allowance if the member files with the retirement board the  
 16 member's written application.

17 (b) A tier two member who is not eligible for service retirement but who has at least 5 years of creditable  
 18 service and has attained the age of 55 is eligible for an early retirement allowance.

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

21 (2)(3) The early retirement allowance must be determined as prescribed in 19-20-804, with the exception  
 22 that the allowance will be reduced using actuarially equivalent factors based on the most recent actuarial  
 23 valuation of the system."

24  
 25 **Section 15.** Section 19-20-804, MCA, is amended to read:

26 **"19-20-804. Allowance for service retirement -- professional retirement option allowance --**  
 27 **creditable service limitation.** (1) Upon termination, a tier one or tier two member who qualifies for benefits  
 28 pursuant to 19-20-801(1) or (2) must receive a retirement allowance equal to one-sixtieth of the member's  
 29 average final compensation, as limited by 19-20-715, multiplied by the sum of the number of years of creditable  
 30 service and ~~service transferred under 19-20-409.~~

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

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

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

7 (ii) service credit transferred under 19-20-409."  
 8

9 **Section 16.** Section 19-20-805, MCA, is amended to read:

10 **"19-20-805. Calculation of average final compensation.** (1) Except as limited by this section, average  
 11 final compensation is calculated by averaging the earned compensation paid to:

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

13 or

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

15 (2) (a) The earned compensation of a tier one member who retires under 19-20-802, 19-20-804, or  
 16 19-20-902 and has less than 3 consecutive years of full-time service during the 5 years immediately preceding  
 17 the member's termination is the compensation that the member would have earned in the 3 years used to  
 18 calculate average final compensation had the member's part-time service during the 5 years preceding  
 19 termination been full-time service.

20 (b) The earned compensation of a tier two member who retires under 19-20-802, 19-20-804, or  
 21 19-20-902 and has less than 5 consecutive years of full-time service during the 7 years immediately preceding  
 22 the member's termination is the compensation that the member would have earned in the 5 years used to  
 23 calculate average final compensation had the member's part-time service during the 7 years preceding  
 24 termination been full-time service.

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

27 ~~(3)~~(4) (a) Subject to subsection (3)(b) (4)(b), if a member has transferred service from the public  
 28 employees' retirement system as provided under 19-20-409 and does not have 3 consecutive years of full-time  
 29 service if a tier one member or 5 consecutive years of full-time service if a tier two member reported to the  
 30 teachers' retirement system, the member's average final compensation must be calculated as follows:

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

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

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

15 ~~(4)~~(5) (a) If the benefits excluded from earned compensation pursuant to 19-20-101(7)(b) have been  
 16 converted by an employer to earned compensation for all members and have been continuously reported as  
 17 earned compensation in a like amount for at least 5 fiscal years preceding a member's retirement, the converted  
 18 benefit amounts must be included in the calculation of average final compensation.

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

24

25 **Section 17.** Section 19-20-901, MCA, is amended to read:

26 **"19-20-901. Eligibility for disability retirement -- determination by board.** (1) ~~Upon~~ Except as  
 27 provided in subsection (5), upon the application of a member or of the member's employer for a disability  
 28 retirement allowance, any member who has 5 or more years of creditable service and who has become disabled  
 29 while being an active member may be retired by the retirement board the month immediately following the month  
 30 in which employment is terminated.

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

6           ~~(2)~~(3) In making a determination under subsection ~~(4)~~ (2), the retirement board or its representative may:  
 7           (a) order examinations by a physician, psychologist, or vocational rehabilitation counselor;  
 8           (b) conduct hearings, administer oaths and affirmations, take depositions, and certify to official acts; and  
 9           (c) issue subpoenas to compel the attendance of witnesses and the production of books, papers,  
 10 correspondence, memorandums, and other records considered necessary as evidence in connection with a claim  
 11 for disability retirement. The subpoenas issued under this subsection ~~(2)(e)~~ (3)(c) are enforceable as provided  
 12 in 2-4-104.

13           ~~(3)~~(4) The retirement board may secure and pay reasonable compensation for professional services and  
 14 advice that the board determines necessary to carry out the purposes of this part.

15           (5) (a) A tier two member is not eligible for disability retirement if the member is or will be eligible for  
 16 service retirement on or before the member's date of termination.

17           (b) A disability retirement application filed by a member who is ineligible for disability retirement under  
 18 subsection (5)(a) will be processed as an application for a service retirement allowance."

19

20           **Section 18.** Section 19-20-1001, MCA, is amended to read:

21           **"19-20-1001. Allowances for death of member prior to retirement.** (1) If a member dies before  
 22 retirement, the member's accumulated contributions must be paid to the member's estate or to the beneficiary  
 23 that the member nominated by a written application in a manner prescribed by the board and filed with the  
 24 retirement board prior to the member's death.

25           (2) (a) ~~It~~ Except as provided in subsection (2)(d), in lieu of benefits provided for in subsection (1), if the  
 26 deceased member qualified by reason of service for a retirement benefit, the nominated beneficiary may elect  
 27 to receive a retirement allowance. The retirement allowance must be determined as prescribed in 19-20-804,  
 28 without reference to 19-20-715(2), in the same manner as if the member elected option A provided for in  
 29 19-20-702(2)(a).

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

1 (i) the first of the month following the date of death; or  
2 (ii) the effective date of the member's retirement, as acknowledged in writing by the retirement system  
3 before the member's death.

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

8 (d) The nominated beneficiary of a deceased tier two member may elect to receive a retirement  
9 allowance as permitted under subsection (2)(a) only if the tier two member died within 1 year of the last day on  
10 which the tier two member was employed in a position reportable to the retirement system. If the tier two member  
11 was an inactive member for more than 1 year before the member's date of death, the tier two member's  
12 accumulated contributions must be paid pursuant to subsection (1).

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

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

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

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

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

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

26

27 **Section 19.** Section 20-9-501, MCA, is amended to read:

28 **"20-9-501. Retirement costs and retirement fund.** (1) The trustees of a district or the management  
29 board of a cooperative employing personnel who are members of the teachers' retirement system or the public  
30 employees' retirement system, who are covered by unemployment insurance, or who are covered by any federal

1 social security system requiring employer contributions shall establish a retirement fund for the purposes of  
2 budgeting and paying the employer's contributions to the systems as provided in subsection (2)(a). The district's  
3 or the cooperative's contribution for each employee who is a member of the teachers' retirement system must  
4 be calculated in accordance with Title 19, chapter 20, part 6. The district's or the cooperative's contribution for  
5 each employee who is a member of the public employees' retirement system must be calculated in accordance  
6 with 19-3-316. The district's or the cooperative's contributions for each employee covered by any federal social  
7 security system must be paid in accordance with federal law and regulation. The district's or the cooperative's  
8 contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title  
9 39, chapter 51, part 11.

10 (2) (a) The district or the cooperative shall pay the employer's contributions to the retirement, federal  
11 social security, and unemployment insurance systems from the retirement fund for the following:

12 (i) a district employee whose salary and health-related benefits, if any health-related benefits are  
13 provided to the employee, are paid from state or local funding sources;

14 (ii) a cooperative employee whose salary and health-related benefits, if any health-related benefits are  
15 provided to the employee, are paid from the cooperative's interlocal cooperative fund if the fund is supported  
16 solely from districts' general funds and state special education allowable cost payments, pursuant to 20-9-321,  
17 or are paid from the miscellaneous programs fund, provided for in 20-9-507, from money received from the  
18 medicaid program, pursuant to 53-6-101;

19 (iii) a district employee whose salary and health-related benefits, if any health-related benefits are  
20 provided to the employee, are paid from the district's school food services fund provided for in 20-10-204; and

21 (iv) a district employee whose salary and health-related benefits, if any health-related benefits are  
22 provided to the employee, are paid from the district impact aid fund, pursuant to 20-9-514.

23 (b) For an employee whose benefits are not paid from the retirement fund, the district or the cooperative  
24 shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance  
25 systems from the funding source that pays the employee's salary.

26 (3) The trustees of a district required to make a contribution to a system referred to in subsection (1) shall  
27 include in the retirement fund of the final budget the estimated amount of the employer's contribution. After the  
28 final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the systems  
29 in accordance with the financial administration provisions of this title.

30 (4) When the final retirement fund budget has been adopted, the county superintendent shall establish

1 the levy requirement by:

2 (a) determining the sum of the money available to reduce the retirement fund levy requirement by adding:

3 (i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal  
4 year;

5 (ii) oil and natural gas production taxes;

6 (iii) coal gross proceeds taxes under 15-23-703;

7 (iv) any fund balance available for reappropriation as determined by subtracting the amount of the  
8 end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal  
9 year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating  
10 reserve may not be more than ~~35%~~ 20% of the final retirement fund budget for the ensuing school fiscal year and  
11 must be used for the purpose of paying retirement fund warrants issued by the district under the final retirement  
12 fund budget.

13 (v) property tax reimbursements made pursuant to 15-1-123(6);

14 (vi) any other revenue anticipated that may be realized in the retirement fund during the ensuing school  
15 fiscal year, excluding any guaranteed tax base aid;

16 (b) notwithstanding the provisions of subsection (9), subtracting the money available for reduction of the  
17 levy requirement, as determined in subsection (4)(a), from the budgeted amount for expenditures in the final  
18 retirement fund budget.

19 (5) The county superintendent shall:

20 (a) total the net retirement fund levy requirements separately for all elementary school districts, all high  
21 school districts, and all community college districts of the county, including any prorated joint district or special  
22 education cooperative agreement levy requirements; and

23 (b) report each levy requirement to the county commissioners by the later of the first Tuesday in  
24 September or within 30 calendar days after receiving certified taxable values as the respective county levy  
25 requirements for elementary district, high school district, and community college district retirement funds.

26 (6) The county commissioners shall fix and set the county levy or district levy in accordance with  
27 20-9-142.

28 (7) The net retirement fund levy requirement for a joint elementary district or a joint high school district  
29 must be prorated to each county in which a part of the district is located in the same proportion as the district ANB  
30 of the joint district is distributed by pupil residence in each county. The county superintendents of the counties



1 affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.

2 (8) The net retirement fund levy requirement for districts that are members of special education  
3 cooperative agreements must be prorated to each county in which the district is located in the same proportion  
4 as the special education cooperative budget is prorated to the member school districts. The county  
5 superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each  
6 county in the same manner as provided in 20-9-151, and the county commissioners shall fix and levy the net  
7 retirement fund levy for each county in the same manner as provided in 20-9-152.

8 (9) The county superintendent shall calculate the number of mills to be levied on the taxable property  
9 in the county to finance the retirement fund net levy requirement by dividing the amount determined in subsection  
10 (5)(a) by the sum of:

11 (a) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified  
12 by the superintendent of public instruction; and

13 (b) the taxable valuation of the district divided by 1,000.

14 (10) The levy for a community college district may be applied only to property within the district.

15 (11) The county superintendent of each county shall submit a report of the revenue amounts used to  
16 establish the levy requirements for county school funds supporting elementary and high school district retirement  
17 obligations to the superintendent of public instruction on or before September 15. The report must be completed  
18 on forms supplied by the superintendent of public instruction."

19

20 **Section 20.** Section 20-9-622, MCA, is amended to read:

21 **"20-9-622. Guarantee account.** (1) There is a guarantee account in the state special revenue fund. The  
22 guarantee account is intended to:

23 (a) stabilize the long-term growth of the permanent fund; and

24 (b) maintain a constant and increasing distributable revenue stream. All realized capital gains and all  
25 distributable revenue must be deposited in the guarantee account.

26 (2) Except as provided in subsection ~~(2)~~ (3), the guarantee account is statutorily appropriated, as  
27 provided in 17-7-502, for distribution to school districts through school equalization aid as provided in 20-9-343.

28 ~~(2)(3) As long as a portion of the coal severance tax loan authorized in section 8, Chapter 418, Laws~~  
29 ~~of 2001, is outstanding, the department of natural resources and conservation shall monthly transfer from the~~  
30 ~~guarantee account to the general fund an amount that represents the amount of interest income that would be~~

1 ~~earned from the investment of the amount of the loan that is currently outstanding. When the loan is fully paid,~~  
 2 ~~all mineral royalties deposited in the guarantee account must be transferred to the school facility and technology~~  
 3 ~~account pursuant to 17-6-340~~ The amount of \$25 million each fiscal year is statutorily appropriated, as provided  
 4 in 17-7-502, to the teachers' retirement system established pursuant to 19-20-102. Amounts deposited to the  
 5 guarantee account must be paid to the teachers' retirement system as soon as feasible after the deposits are  
 6 made until the full \$25 million is paid and prior to any distribution to the school districts under subsection (2)."

7

8 **Section 21.** Section 20-10-145, MCA, is amended to read:

9 **"20-10-145. State transportation reimbursement.** (1) A district providing school bus transportation or  
 10 individual transportation in accordance with this title, board of public education transportation policy, and  
 11 superintendent of public instruction transportation rules must receive a state reimbursement of its transportation  
 12 expenditures under the transportation reimbursement rate provisions of 20-10-141 and 20-10-142. The state  
 13 transportation reimbursement is one-half of the reimbursement amounts established in 20-10-141 and 20-10-142  
 14 or one-half of the district's transportation fund budget, whichever is smaller, and must be computed on the basis  
 15 of the number of days the transportation services were actually rendered, not to exceed 180 pupil-instruction  
 16 days. In determining the amount of the state transportation reimbursement, an amount claimed by a district may  
 17 not be considered for reimbursement unless the amount has been paid in the regular manner provided for the  
 18 payment of other financial obligations of the district.

19 (2) Requests for the state transportation reimbursement must be made by each district semiannually  
 20 during the school fiscal year on the claim forms and procedure promulgated by the superintendent of public  
 21 instruction. The claims for state transportation reimbursements must be routed by the district to the county  
 22 superintendent, who after reviewing the claims shall send them to the superintendent of public instruction. The  
 23 superintendent of public instruction shall establish the validity and accuracy of the claims for the state  
 24 transportation reimbursements by determining compliance with this title, board of public education transportation  
 25 policy, and the transportation rules of the superintendent of public instruction. After making any necessary  
 26 adjustments to the claims, the superintendent of public instruction shall order a disbursement from the state  
 27 money appropriated by the legislature of the state of Montana for the state transportation reimbursement.

28 (3) The superintendent of public instruction shall make the disbursement to each school district according  
 29 to the following schedule:

30 (a) By September 1 of each year, the superintendent of public instruction shall make a payment equal

1 to 50% of the state transportation reimbursement paid to the district in the previous school year.

2 (b) By March 31 of each year, the superintendent of public instruction shall make a payment to the district  
 3 equal to the approved amount of state reimbursement for first semester transportation claims less the amount  
 4 distributed to the district under subsection (3)(a).

5 (c) By June 30 of each year, the superintendent of public instruction shall make a payment to the district  
 6 to pay the balance of the approved amount due to the district for first and second semester transportation.

7 (4) The payment of all the district's claims within one county must be made to the county treasurer of the  
 8 county, and the county superintendent shall apportion the payment in accordance with the apportionment order  
 9 supplied by the superintendent of public instruction.

10 ~~(3)~~(5) After adopting a budget amendment for the transportation fund in accordance with 20-9-161  
 11 through 20-9-166, the district shall send to the superintendent of public instruction a copy of each new or  
 12 amended individual transportation contract and each new or amended bus route form to which the budget  
 13 amendment applies. State reimbursement for the additional obligations must be paid as provided in subsection  
 14 (1)."

15  
 16 **NEW SECTION. Section 22. Transfer of excess retirement fund operating reserves.** On September  
 17 1, 2013, the trustees of a district maintaining a retirement fund as provided in 20-9-501 shall pay to the teachers'  
 18 retirement system the greater of:

19 (1) the amount earmarked as an operating reserve on the adopted retirement fund budget for fiscal year  
 20 2013 minus 20% of the adopted retirement fund budget for fiscal year 2013; or

21 (2) the retirement fund balance for fiscal year 2013 minus the allowable retirement fund operating reserve  
 22 for fiscal year 2014.

23  
 24 **NEW SECTION. Section 23. Codification instruction.** ~~[Section 6]~~ is [SECTIONS 6 AND 8] ARE intended  
 25 to be codified as an integral part of Title 19, chapter 20, part 6, and the provisions of Title 19, chapter 20, part 6,  
 26 apply to ~~[section 6]~~ [SECTIONS 6 AND 8].

27  
 28 **NEW SECTION. Section 24. Severability.** If a part of [this act] is invalid, all valid parts that are  
 29 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
 30 the part remains in effect in all valid applications that are severable from the invalid applications.

1

2           NEW SECTION. **Section 25. Effective date.** [This act] is effective July 1, 2013.

3

- END -