

Unofficial Draft Copy

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LC2005-2

**** Bill No. ****

Introduced By *****

By Request of the State Administration and Veterans' Affairs Interim Committee

1 A Bill for an Act entitled: "An Act providing for the actuarial funding of the public
2 employees', sheriffs', game wardens' and peace officers', and teachers' retirement
3 systems; increasing employer contribution rates in the public employees', sheriffs', and
4 teachers' retirement systems, including the university system's supplemental employer
5 contribution for liabilities created when the optional retirement program was created;
6 providing that the increase in the employer contribution rate will terminate when certain
7 actuarial conditions are met; allowing a change in the plan choice rate and in the
8 allocation of employer contributions to the public employees' retirement system to occur
9 following a special legislative session; revising the definition of "full-time service" and
10 "part-time service" for the teachers' retirement system; allowing the teachers' retirement
11 board to set the system's regular interest rate to less than 4 percent; clarifying the
12 maximum amount of compensation a retired member of the teachers' retirement system
13 may earn under certain circumstances; requiring the school district board of trustees to
14 contractually limit compensation under certain circumstances; appropriating funds;
15 amending sections 19-3-316, 19-3-2117, 19-3-2121, 19-7-404, 19-20-101, 19-20-102,
16 19-20-501, 19-20-605, 19-20-621, 19-20-731, 19-21-214, and 20-3-324, MCA; and
17 providing an immediate effective date and an applicability date."

18
19 Be it enacted by the Legislature of the State of Montana:

20
21 **Section 1.** Section 19-3-316, MCA, is amended to read:

22 **"19-3-316. Employer contribution rates.** (1) Each employer shall contribute to
23 the system. Except as provided in ~~subsection (2)~~ subsections (2) and (3), the employer

1 shall pay as employer contributions 6.9% of the compensation paid to all of the
2 employer's employees, except those properly excluded from membership. Of employer
3 contributions made under this subsection for both defined benefit plan and defined
4 contribution plan members, a portion must be allocated for educational programs as
5 provided in 19-3-112. Employer contributions for members under the defined
6 contribution plan must be allocated as provided in 19-3-2117.

7 (2) Local government and school district employer contributions must be the
8 total employer contribution rate provided in subsection (1) minus the state contribution
9 rate under 19-3-319.

10 (3) Except for individuals who are properly excluded from membership and
11 subject to subsection (4), in addition to the contribution required under subsection (1),
12 each employer shall contribute to the system a sum equal to:

13 (a) 0.82% of the total compensation paid to all of the employer's employees for
14 the period beginning July 1, 2006 through June 30, 2007; and

15 (b) 1.64% of the total compensation paid to all of the employer's employees
16 beginning July 1, 2007 and thereafter.

17 (4) (a) The board shall periodically review the additional employer contribution
18 provided for under subsection (3) and recommend adjustments to the legislature as
19 needed to maintain the amortization schedule set by the board for payment of the
20 system's unfunded liabilities.

21 (b) The employer contribution required under subsection (3) terminates on
22 January 1 immediately following the system's actuarial valuation if:

23 (i) the actuarial valuation determines that the period required to amortize the
24 system's unfunded liabilities, including adjustments made for any benefit enhancements
25 enacted by the legislature after the valuation, is less than 25 years; and

26 (ii) terminating the additional employer contribution would not cause the
27 amortization period as of the most recent actuarial valuation to exceed 25 years."

1 {Internal References to 19-3-316:
2 19-3-108 19-3-112 19-3-511 19-3-2117
3 19-21-214 20-9-501 }

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Section 2. Section 19-3-2117, MCA, is amended to read:

"19-3-2117. Allocation of contributions and forfeitures. (1) The member contributions made under 19-3-315 and additional contributions paid by the member for the purchase of service must be allocated to the plan member's retirement account.

(2) Subject to adjustment by the board as provided in 19-3-2121, of the employer contributions under 19-3-316 received:

(a) on or after July 1, 2002, an amount equal to:

(a)(i) 4.19% of compensation must be allocated to the member's retirement account;

(b)(ii) 2.37% of compensation must be allocated to the defined benefit plan as the plan choice rate;

(c)(iii) 0.04% of compensation must be allocated to the education fund as provided in 19-3-112(1)(b); and

(d)(iv) 0.3% of compensation must be allocated to the long-term disability plan trust fund established pursuant to 19-3-2141; and

(b)(i) beginning July 1, 2006 through June 30, 2007, 0.82% of compensation must be allocated to the defined benefit plan to reduce the plan choice rate unfunded actuarial liability;

(ii) beginning July 1, 2007, 1.64% of compensation must be allocated to the defined benefit plan to reduce the plan choice rate unfunded actuarial liability; and

(iii) beginning when the employer contributions under 19-3-316(3) terminate pursuant to 19-3-316(4), the allocation required under subsection (2)(b)(i) or (ii) also terminates.

(3) Forfeitures of employer contributions and investment income on the

1 employer contributions may not be used to increase a member's retirement account.
 2 The board shall allocate the forfeitures under 19-3-2116 to meet the plan's
 3 administrative expenses, ~~including startup expenses.~~"

4 {Internal References to 19-3-2117:
 5 19-2-303 19-2-405 19-3-315 19-3-316
 6 19-3-2114 19-3-2114 19-3-2114 19-3-2116
 7 19-3-2121 19-3-2121 19-3-2121 19-3-2121
 8 19-3-2121 19-3-2121 19-3-2121 19-3-2121
 9 19-3-2121 19-3-2121 19-3-2121 19-3-2126
 10 19-3-2126 }

11
 12 **Section 3.** Section 19-3-2121, MCA, is amended to read:

13 **"19-3-2121. Determination and adjustment of plan choice rate and**
 14 **contribution allocations.** (1) The board shall periodically review the sufficiency of the
 15 plan choice rate and shall adjust the allocation of contributions under 19-3-2117 as
 16 specified in this section. The board shall collect and maintain the data necessary to
 17 comply with this section.

18 (2) The plan choice rate set in 19-3-2117(2)(b) must be adjusted as provided in
 19 this section, taking into account:

20 (a) as determined under subsection (3), the change in the normal cost
 21 contribution rate in the defined benefit plan that is the result of member selection of the
 22 defined contribution plan; and

23 (b) as determined under subsection (4), the sufficiency of the plan choice rate to
 24 actuarially fund the defined contribution plan member's appropriate share of the defined
 25 benefit plan's unfunded liabilities.

26 (3) The change in the normal cost contribution rate must be an amount equal to
 27 the difference between the normal cost contribution rate in the defined benefit plan that
 28 would have resulted if all system members remained in the defined benefit plan and the
 29 normal cost contribution rate in the defined benefit plan for the actual members of the
 30 defined benefit plan, multiplied by the compensation paid to all of the members in the

1 defined benefit plan, divided by the compensation paid to all of the members in the
2 defined contribution plan. The measurements under this subsection must be based on
3 the defined benefit plan in effect on the effective date of the defined contribution plan
4 until the board determines that the defined benefit plan has been amended in a manner
5 that significantly affects plan choices available to system members. After a board
6 determination that the defined benefit plan has been significantly changed, the
7 measurements in this subsection with respect to members entering the system after the
8 significant change must be made on the basis of the defined benefit plan, as amended.

9 (4) The sufficiency of the plan choice rate to actuarially fund the appropriate
10 share of the defined benefit plan's unfunded liabilities must be determined as follows:

11 (a) The board shall determine the number of years required to actuarially fund
12 the defined benefit plan's unfunded liabilities as of the June 30, 1998, actuarial
13 valuation, which must be the initial schedule for the defined contribution plan to
14 actuarially fund the plan's share of the unfunded liabilities. The board shall reduce the
15 schedule by 1 year each biennium.

16 (b) During each subsequent actuarial valuation of the defined benefit plan
17 conducted pursuant to 19-2-405, the board shall determine whether the plan choice
18 rate minus the amount provided in subsection (2)(a) of this section is sufficient to pay
19 the unfunded liability obligations within the schedule determined under subsection (4)(a)
20 of this section. If the amount is insufficient to fund the liability over a period of ~~10~~ 27
21 ~~years longer than the scheduled period~~ or is more than sufficient to fund the liability
22 over a period of 10 years earlier than the scheduled period, the board shall determine
23 to the nearest 0.1% the amount of the ~~increase or decrease~~ change in the plan choice
24 rate that is required to actuarially fund the liabilities according to the established
25 schedule.

26 (5) If the board determines that the plan choice rate should be ~~increased or~~
27 ~~decreased~~ changed, the plan choice rate under 19-3-2117(2)(b) must be ~~increased or~~

1 ~~decreased~~ changed accordingly. If the plan choice rate is increased, the allocation of
2 employer contributions to member accounts under 19-3-2117(2)(a) must be decreased
3 by that amount. If the plan choice rate is decreased, the allocation of employer
4 contributions to member accounts under 19-3-2117(2)(a) must be increased by that
5 amount.

6 (6) If the board determines that the contribution rate to the disability plan under
7 19-3-2117(2)(d) should be increased, the employer contribution to each member's
8 account under 19-3-2117(2)(a) must be decreased by that amount. If the board
9 determines that the contribution rate to the disability plan under 19-3-2117(2)(d) should
10 be decreased, the employer contribution to each member's account under
11 19-3-2117(2)(a) must be increased by that amount.

12 (7) By November 1 of the year of a determination pursuant to this section that
13 the allocation of employer contributions under 19-3-2117(2) must be changed, the
14 board shall notify system members, participating employers, employee and employer
15 organizations, the governor, and the legislature of its determination and of the changes
16 required.

17 (8) Effective January 1 of the year after the regular or special legislative session
18 that immediately follows a determination under this section, the plan choice rate and the
19 allocation of contributions under 19-3-2117(2) must be adjusted according to the
20 board's determination."

21 {Internal References to 19-3-2121:
22 19-2-303 19-2-407 19-3-2117 19-21-214}

23
24 **Section 4.** Section 19-7-404, MCA, is amended to read:

25 "**19-7-404. Employer contributions.** (1) The employer shall pay ~~9.535%~~ the
26 following amounts of the compensation paid to all of the employer's employees, except
27 those properly excluded from membership:

1 (a) 9.535% through June 30, 2006; and

2 (b) 10.205% beginning July 1, 2007 and thereafter.

3 (2) If the required contribution to the retirement system exceeds the funds
4 available to a county from general revenue sources, a county may, subject to
5 15-10-420, budget, levy, and collect annually a tax on the taxable value of all taxable
6 property within the county that is sufficient to raise the amount of revenue needed to
7 meet the county's obligation."

8 {Internal References to 19-7-404: None.}

9
10 **Section 5.** Section 19-20-101, MCA, is amended to read:

11 **"19-20-101. Definitions.** As used in this chapter, unless the context clearly
12 indicates otherwise, the following definitions apply:

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

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

19 (3) "Average final compensation" means the average of a member's earned
20 compensation during the 3 consecutive years of full-time service or as provided under
21 19-20-805 that yield the highest average and on which contributions have been made
22 as required by 19-20-602. If amounts defined in subsection (6)(b) have been converted
23 by an employer to earned compensation for all members and have been continuously
24 reported as earned compensation in a like amount for at least the 5 fiscal years
25 preceding the member's retirement, the amounts may be included in the calculation of
26 average final compensation. If amounts defined in subsection (6)(b) have been reported
27 as earned compensation for less than 5 fiscal years or if the member has been given

1 the option to have amounts reported as earned compensation, any amounts reported in
2 the 3-year period that constitute average final compensation must be included in
3 average final compensation as provided under 19-20-716(1)(b).

4 (4) "Beneficiary" means one or more persons formally designated by a member,
5 retiree, or benefit recipient to receive a retirement allowance or payment upon the death
6 of the member, retiree, or benefit recipient.

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

8 (6) (a) "Earned compensation" means, except as limited by 19-20-715,
9 remuneration, exclusive of maintenance, allowance, and expenses, paid for services by
10 a member out of funds controlled by an employer before any pretax deductions allowed
11 under the Internal Revenue Code are deducted from the member's compensation.

12 (b) Earned compensation does not mean:

13 (i) direct employer premium payments on behalf of members for health or
14 dependent care expense accounts or any employer contribution for health, medical,
15 pharmaceutical, disability, life, vision, dental, or any other insurance;

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

17 (A) professional membership dues;

18 (B) maintenance;

19 (C) housing;

20 (D) day care;

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

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

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

25 (iv) any noncash benefit provided by an employer to or on behalf of an
26 employee.

27 (c) Unless included pursuant to 19-20-716, earned compensation does not

1 include termination pay.

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

5 (e) Earned compensation does not include:

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

8 (ii) payment for sick, annual, or other types of leave that is allowed to a member
9 and that is accrued in excess of that normally allowed; or

10 (iii) incentive or bonus payments paid to a member that are not part of a series of
11 annual payments.

12 (7) "Employer" means the state of Montana, the trustees of a district, or any
13 other agency or subdivision of the state that employs a person who is designated a
14 member of the retirement system.

15 (8) "Full-time service" means service that is full-time and ~~that extends over a~~
16 ~~normal academic year of at least 9 months. With respect to those members employed~~
17 ~~by the office of the superintendent of public instruction, any other state agency or~~
18 ~~institution, or the office of a county superintendent, full-time service means service that~~
19 ~~is full-time and that totals at least 9 months in any year at least 180 days or 1,440 hours~~
20 in each fiscal year.

21 (9) "Internal Revenue Code" has the meaning provided in 15-30-101.

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

25 (11) "Normal retirement age" means an age no earlier than the age at which the
26 member is eligible to retire:

27 (a) by virtue of age, length of service, or both;

1 (b) without disability; and

2 (c) with the right to receive immediate retirement benefits without an actuarial
3 reduction in the benefits.

4 (12) "Part-time service" means service that is less than full-time ~~or~~ and that totals
5 less than 180 days or 1,440 hours in a ~~normal academic~~ fiscal year. Part-time service
6 must be credited in the proportion that the actual time worked compares to full-time
7 service.

8 (13) "Prior service" means employment of the same nature as service but
9 rendered before September 1, 1937.

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

12 (15) "Retired member" means a person who has terminated employment that
13 qualified the person for membership under 19-20-302 and who has received at least
14 one monthly retirement benefit paid pursuant to this chapter.

15 (16) "Retirement allowance" means a monthly payment due to a person who has
16 qualified for service or disability retirement or due to a beneficiary as provided in
17 19-20-1001.

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

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

22 (19) "Service" means the performance of instructional duties or related activities
23 that would entitle the person to active membership in the retirement system under the
24 provisions of 19-20-302.

25 (20) "Termination" or "terminate" means that the member has severed the
26 employment relationship with the member's employer and that all, if any, payments due
27 upon termination of employment, including but not limited to accrued sick and annual

1 leave balances, have been paid to the member.

2 (21) (a) "Termination pay" means any form of bona fide vacation leave, sick
3 leave, severance pay, amounts provided under a window or early retirement incentive
4 plan, or other payments contingent on the employee terminating employment and on
5 which employee and employer contributions have been paid as required by 19-20-716.

6 (b) Termination pay does not include:

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

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

11 (22) "Vested" means that a member has been credited with at least 5 full years
12 of membership service upon which contributions have been made, as required by
13 19-20-602 and 19-20-605, and who has a right to a future retirement benefit.

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

18 {Internal References to 19-20-101:
19 19-20-602 }

20
21 **Section 6.** Section 19-20-102, MCA, is amended to read:

22 **"19-20-102. Retirement system -- policy.** The state teachers' retirement
23 system created under the provisions of Chapter 87, Laws of 1937, is hereby recognized
24 as the state teachers' retirement system of the state of Montana, and no provisions of
25 this chapter shall affect or impair the validity of any action taken by its governing board
26 or the rights of any person arising under the provisions of Chapter 87, Laws of 1937, or
27 any subsequent amendment thereto. Such state teachers' retirement system shall be

1 known as "The Teachers' Retirement System of the State of Montana" and in that name
2 shall transact all business of the retirement system, hold its assets in trust, and have
3 such powers and privileges of a corporation that may be necessary to carry into effect
4 the provisions of this chapter.

5 (2) It is the policy of the legislature to:

6 (a) provide equitable retirement benefits to members of the teachers' retirement
7 system based on each member's normal service and salary;

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

11 (c) limit the total compensation, including fringe benefits, that a retired member
12 may earn post-retirement in a position that would normally be included in the teachers'
13 retirement system to the amount determined under 19-20-731(1)(a)."

14 {Internal References to 19-20-102:
15 19-20-101 }

16
17 **Section 7.** Section 19-20-501, MCA, is amended to read:

18 **"19-20-501. Financial administration of money.** The members of the
19 retirement board are the trustees of all money collected for the retirement system, and
20 as trustees, they shall provide for the financial administration of the money as provided
21 in Article VIII, section 15, of the Montana constitution in the following manner:

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

24 (2) The retirement board shall annually establish the rate of regular interest. ~~The~~
25 ~~rate established by the board may not be less than 4%.~~

26 (3) The retirement board shall annually divide among the several reserves of the
27 retirement system an amount equal to the average balance of the reserves during the

1 preceding fiscal year multiplied by the rate of regular interest. In accordance with the
2 provisions of 19-20-605(5), the amount to be credited to each reserve must be
3 allocated from the interest and other earnings on the money of the retirement system
4 actually realized during the preceding fiscal year, less the amount allocated to
5 administrative expenses. The administrative expenses of the retirement system, less
6 amortization of intangible assets, may not exceed 1.5% of retirement benefits paid.

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

9 (5) For purposes of Article VIII, section 12, of the Montana constitution, all the
10 reserves established by part 6 of this chapter must be accounts in the pension trust
11 fund type of the treasury fund structure of the state.

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

15 {Internal References to 19-20-501:
16 19-20-101 19-20-201 }

17
18 **Section 8.** Section 19-20-605, MCA, is amended to read:

19 **"19-20-605. Pension accumulation fund -- employer's contribution.** The
20 pension accumulation fund is the fund in which the reserves for payment of retirement
21 allowances and benefits must be accumulated and from which retirement allowances
22 and benefits must be paid to retirees or their beneficiaries. Contributions to and
23 payments from the pension accumulation fund must be made as follows:

24 (1)(a) ~~Each~~ Except as provided in subsection (1)(b), each employer shall pay
25 into the pension accumulation fund an amount equal to ~~7.47%~~ 11.53% of the earned
26 compensation of ~~each member~~ for all of the employer's employees who are members
27 of the system that are employed during the whole or part of the preceding payroll

1 period.

2 (b) The employer contribution required under subsection (1)(a) must be reduced
3 to 7.47% on the following July 1 when:

4 (i) the board certifies to the governor that the percentage is sufficient to allow the
5 amortization schedule for the system's unfunded liabilities to be maintained at 25 years
6 or less; and

7 (ii) reducing the employer contribution to 7.47% does not cause the amortization
8 period as of the most recent actuarial valuation to exceed 25 years.

9 (c) The board shall periodically review the employer contribution rate provided in
10 this subsection (1) and recommend adjustments to the legislature as needed to
11 maintain the amortization of unfunded liabilities in an actuarially sound manner.

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

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

18 (4) If the employer is a county, the county commissioners shall budget and pay
19 for the employer's contribution in the manner provided by law for the adoption of a
20 county budget and for payments under the budget.

21 (5) All interest and other earnings realized on the money of the retirement
22 system must be credited to the pension accumulation fund, and the amount required to
23 allow regular interest on the annuity savings fund must be transferred to that fund from
24 the pension accumulation fund.

25 (6) The retirement board may transfer from the pension accumulation fund to
26 the expense fund an amount necessary to cover expenses of administration."

27 {Internal References to 19-20-605:

1 19-20-101 19-20-208 19-20-409 19-20-501
2 19-20-716 19-20-806 }

3

4 **Section 9.** Section 19-20-621, MCA, is amended to read:

5 **"19-20-621. Montana university system optional retirement program**

6 **supplemental contributions.** (1) Each employer within the university system with
7 employees participating in the optional retirement program under Title 19, chapter 21,
8 shall contribute to the teachers' retirement system a supplemental employer
9 contribution sufficient to amortize, by July 1, 2033, the past service liability of the
10 teachers' retirement system for the university system members.

11 (2) The optional retirement program supplemental employer contribution as a
12 percentage of the total compensation of all employees participating in the program ~~must~~
13 ~~increase to~~ is:

- 14 ~~(a) 2.81% beginning July 1, 1997;~~
- 15 ~~—— (b) 3.12% beginning July 1, 1998;~~
- 16 ~~—— (c) 3.42% beginning July 1, 1999;~~
- 17 ~~—— (d) 3.73% beginning July 1, 2000; and~~
- 18 ~~—— (e) (a) 4.04% beginning July 1, 2001;~~
- 19 (b) 4.79% beginning July 1, 2006; and
- 20 (c) 5.54% beginning July 1, 2007.

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

24 {Internal References to 19-20-621:
25 19-21-203 }

26

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

28 **"19-20-731. Postretirement employment limitations -- cancellation and**

1 **recalculation of benefits.** (1) (a) Except as otherwise provided in this section, a retired
2 member may be employed part-time by a school district, state agency, or unit of the
3 university system in a position eligible to participate in the retirement system and may
4 earn, without an adjustment of retirement benefits, an amount not to exceed the greater
5 of:

- 6 (a)(i) one-third of the sum of the member's average final compensation; or
- 7 (b)(ii) one-third of the median of the average final compensation for members
8 retired during the preceding fiscal year as determined by the retirement board.

9 (b) For the purpose of this subsection (1), the maximum compensation a retired
10 member may earn under subsection (1)(a) includes all remuneration paid to the retired
11 member, plus the value of all taxable fringe benefits, including but not limited to:

- 12 (i) car and housing allowances;
- 13 (ii) annuities;
- 14 (iii) professional membership dues;
- 15 (iv) maintenance;
- 16 (v) day care;
- 17 (vi) reimbursements for nonwork related automobile, travel, lodging, or
18 entertaining expenses; or
- 19 (vii) any similar payment for any form of maintenance, allowance, or expenses.

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

25 (3) Except as provided in subsection (5), the retirement benefit of a retired
26 member:

- 27 (a) employed in a part-time position or earning more than allowed by

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

6 (b) employed in a full-time position must be canceled beginning in the month in
7 which the retired member returns to full-time employment.

8 (4) Upon termination and retirement subsequent to a cancellation of benefits
9 pursuant to subsection (3), the retirement benefit of a member:

10 (a) who was reemployed and earned less than 1 year of creditable service must
11 be reinstated beginning either the first of the month following termination or on July 1
12 following the date on which the retired member was reemployed, whichever is later. The
13 reinstated retirement benefit is the amount and option that the retired member would
14 have been entitled to receive had the retired member not returned to employment.

15 (b) who was reemployed and earned at least 1 year of creditable service must
16 be recalculated under 19-20-804 if the member has attained normal retirement age or
17 under 19-20-802 if the member has not attained normal retirement age but is eligible for
18 early retirement. The recalculated benefit is based on the service credit accumulated at
19 the time of the member's previous retirement, plus any service credit accumulated
20 subsequent to reemployment. The recalculated normal form benefit amount must be
21 increased by the amount of any benefit enhancement received pursuant to 19-20-719
22 that the retired member was receiving when the member's benefits were canceled.

23 (5) If an early-retired member under 19-20-802 is reemployed with the same
24 employer within 30 days from the member's effective date of retirement or if the
25 early-retired member is guaranteed reemployment with the same employer, the
26 member must be considered to have continued in the status of an active member and
27 not to have separated from service. Any retirement allowance payments received by the

1 member must be repaid to the system, together with interest, at the actuarially assumed
2 rate, and the retirement allowance must be canceled."

3 {Internal References to 19-20-731:
4 19-20-208 19-20-302 19-20-806 }

5

6 **Section 11.** Section 19-21-214, MCA, is amended to read:

7 **"19-21-214. Contributions and allocations for employees in positions**

8 **covered under the public employees' retirement system.** (1) The contribution rates
9 for employees in positions covered under the public employees' retirement system who
10 elect to become program members pursuant to 19-3-2112 are as follows:

11 (a) the member's contribution rate must be the rate provided in 19-3-315; and

12 (b) the employer's contribution rate must be the rate provided in 19-3-316.

13 (2) Subject to subsection (3), the employer's contribution under subsection (1)(b)
14 must be allocated as follows:

15 (a) 4.49% of compensation must be allocated to the participant's program
16 account;

17 (b) 2.37% of compensation must be allocated to the defined benefit plan under
18 the public employees' retirement system as the plan choice rate; and

19 (c) 0.04% of compensation must be allocated to the education fund pursuant to
20 19-3-112(1)(b); and

21 (d)(i) beginning July 1, 2006 through June 30, 2007, 0.82% of compensation
22 must be allocated to the defined benefit plan to reduce the plan choice rate unfunded
23 actuarial liability;

24 (ii) beginning July 1, 2007, 1.64% of compensation must be allocated to the
25 defined benefit plan to reduce the plan choice rate unfunded actuarial liability; and

26 (iii) beginning when the employer contributions under 19-3-316(3) terminate
27 pursuant to 19-3-316(4), the allocation required under subsection (2)(d)(i) or (ii) also

1 terminates.

2 (3) The allocations under subsection (2) are subject to adjustment by the public
3 employees' retirement board, but only as described in and in a manner consistent with
4 the express provisions of 19-3-2121."

5 {Internal References to 19-21-214:
6 19-21-203}

7

8 **Section 12.** Section 20-3-324, MCA, is amended to read:

9 **"20-3-324. Powers and duties.** As prescribed elsewhere in this title, the
10 trustees of each district shall:

11 (1) employ or dismiss a teacher, principal, or other assistant upon the
12 recommendation of the district superintendent, the county high school principal, or other
13 principal as the board considers necessary, accepting or rejecting any recommendation
14 as the trustees in their sole discretion determine, in accordance with the provisions of
15 Title 20, chapter 4;

16 (2) employ and dismiss administrative personnel, clerks, secretaries, teacher
17 aides, custodians, maintenance personnel, school bus drivers, food service personnel,
18 nurses, and any other personnel considered necessary to carry out the various services
19 of the district;

20 (3) administer the attendance and tuition provisions and govern the pupils of the
21 district in accordance with the provisions of the pupils chapter of this title;

22 (4) call, conduct, and certify the elections of the district in accordance with the
23 provisions of the school elections chapter of this title;

24 (5) participate in the teachers' retirement system of the state of Montana in
25 accordance with the provisions of the teachers' retirement system chapter of Title 19;

26 (6) participate in district boundary change actions in accordance with the
27 provisions of the districts chapter of this title;

1 (7) organize, open, close, or acquire isolation status for the schools of the
2 district in accordance with the provisions of the school organization part of this title;

3 (8) adopt and administer the annual budget or a budget amendment of the
4 district in accordance with the provisions of the school budget system part of this title;

5 (9) conduct the fiscal business of the district in accordance with the provisions of
6 the school financial administration part of this title;

7 (10) subject to 15-10-420, establish the ANB, BASE budget levy, over-BASE
8 budget levy, additional levy, operating reserve, and state impact aid amounts for the
9 general fund of the district in accordance with the provisions of the general fund part of
10 this title;

11 (11) establish, maintain, budget, and finance the transportation program of the
12 district in accordance with the provisions of the transportation parts of this title;

13 (12) issue, refund, sell, budget, and redeem the bonds of the district in
14 accordance with the provisions of the bonds parts of this title;

15 (13) when applicable, establish, financially administer, and budget for the tuition
16 fund, retirement fund, building reserve fund, adult education fund, nonoperating fund,
17 school food services fund, miscellaneous programs fund, building fund, lease or rental
18 agreement fund, traffic education fund, impact aid fund, interlocal cooperative
19 agreement fund, and other funds as authorized by the state superintendent of public
20 instruction in accordance with the provisions of the other school funds parts of this title;

21 (14) when applicable, administer any interlocal cooperative agreement, gifts,
22 legacies, or devises in accordance with the provisions of the miscellaneous financial
23 parts of this title;

24 (15) hold in trust, acquire, and dispose of the real and personal property of the
25 district in accordance with the provisions of the school sites and facilities part of this
26 title;

27 (16) operate the schools of the district in accordance with the provisions of the

1 school calendar part of this title;

2 (17) set the length of the school term, school day, and school week in
3 accordance with 20-1-302;

4 (18) establish and maintain the instructional services of the schools of the district
5 in accordance with the provisions of the instructional services, textbooks, K-12 career
6 and vocational/technical education, and special education parts of this title;

7 (19) establish and maintain the school food services of the district in accordance
8 with the provisions of the school food services parts of this title;

9 (20) make reports from time to time as the county superintendent,
10 superintendent of public instruction, and board of public education may require;

11 (21) retain, when considered advisable, a physician or registered nurse to
12 inspect the sanitary conditions of the school or the general health conditions of each
13 pupil and, upon request, make available to any parent or guardian any medical reports
14 or health records maintained by the district pertaining to the child;

15 (22) for each member of the trustees, visit each school of the district not less
16 than once each school fiscal year to examine its management, conditions, and needs,
17 except trustees from a first-class school district may share the responsibility for visiting
18 each school in the district;

19 (23) procure and display outside daily in suitable weather on school days at each
20 school of the district an American flag that measures not less than 4 feet by 6 feet;

21 (24) provide that an American flag that measures approximately 12 inches by 18
22 inches be prominently displayed in each classroom in each school of the district, except
23 in a classroom in which the flag may get soiled. This requirement is waived if the flags
24 are not provided by a local civic group.

25 (25) adopt and administer a district policy on assessment for placement of any
26 child who enrolls in a school of the district from a nonpublic school that is not
27 accredited, as required in 20-5-110;

1 (26) upon request and in compliance with confidentiality requirements of state
2 and federal law, disclose to interested parties school district student assessment data
3 for any test required by the board of public education;

4 (27) consider and may enter into an interlocal agreement with a postsecondary
5 institution, as defined in 20-9-706, that authorizes 11th and 12th grade students to
6 obtain credits through classes available only at a postsecondary institution;

7 (28) approve or disapprove the conduct of school on a Saturday in accordance
8 with the provisions of 20-1-303;

9 (29) consider and, if advisable for a high school or K-12 district, establish a
10 student financial institution, as defined in 32-1-115; and;

11 (30) negotiate preretirement and postretirement contracts that limit
12 compensation included in the calculation of average final compensation and limit
13 compensation earnable in a post-retirement position as provided in 19-20-731; and

14 ~~(30)~~(31) perform any other duty and enforce any other requirements for the
15 government of the schools prescribed by this title, the policies of the board of public
16 education, or the rules of the superintendent of public instruction."

17 {Internal References to 20-3-324:
18 20-3-362 }

19
20 **NEW SECTION. Section 13. Appropriations.** (1) The following money is
21 appropriated as follows for the biennium ending June 30, 2007, to implement the
22 retirement system state employer contribution rate increases provided for in [this act]:

	Fiscal Year 2006	Fiscal Year 2007		
	General Fund	Other Funds	General Fund	Other Funds
25	Executive Branch			
26	Office of Public Instruction			
27	University System			

- 1 Judicial Branch
- 2 Legislative Branch
- 3 Consumer Council

4 (2) There is appropriated from the general fund to the public employees'
5 retirement board:

6 (a) \$1.4 million to be used for repaying the loan for startup costs of the defined
7 contribution retirement plan;

8 (b) \$11.5 million to be deposited to the credit of the sheriffs' retirement system;

9 (c) \$1.2 million to be deposited to the credit of the game wardens' and peace
10 officers' retirement system; and

11 (d) \$10.9 million to be deposited to the credit of the public employees'
12 retirement systems defined benefit plan.

13 (3) There is appropriated \$100 million from the general fund to the teachers'
14 retirement system defined benefit plan.

15
16 **NEW SECTION. Section 14. {standard} Effective date -- applicability.** [This
17 act] is effective on passage and approval and applies January 1, 2006.

18 - END -

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