

\*\*\*\* 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; requiring the teachers'  
11 retirement board to set the system's regular interest rate at a positive number greater  
12 than 0 percent; clarifying the maximum amount of compensation a retired member of  
13 the teachers' retirement system may earn under certain circumstances; requiring the  
14 school district board of trustees to contractually limit compensation under certain  
15 circumstances; appropriating funds; amending sections 19-3-316, 19-3-2117, 19-3-  
16 2121, 19-7-404, 19-20-101, 19-20-102, 19-20-501, 19-20-605, 19-20-621, 19-20-731,  
17 19-21-214, and 20-3-324, MCA; and providing an immediate effective 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, in  
11 addition to the contribution required under subsection (1), each employer shall  
12 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 until the condition in subsection (4)(b) is met.

17 (4) (a) The board shall periodically review the additional employer contribution  
18 provided for under subsection (3) and recommend to the legislature adjustments  
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 30 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 30 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 ok/ddb}

4

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

6 **"19-3-2117. Allocation of contributions and forfeitures.** (1) The member  
7 contributions made under 19-3-315 and additional contributions paid by the member for  
8 the purchase of service must be allocated to the plan member's retirement account.

9 (2) Subject to adjustment by the board as provided in 19-3-2121, of the  
10 employer contributions received under 19-3-316 ~~received on or after July 1, 2002, an~~  
11 ~~amount equal to:~~

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

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

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

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

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

22 (ii) beginning July 1, 2007, 1.64% of compensation must be allocated to the  
23 defined benefit plan to minimize the plan choice rate; and

24 (iii) beginning when the employer contribution under 19-3-316(3) terminates  
25 pursuant to 19-3-316(4), the allocation required under subsection (2)(b)(ii) also  
26 terminates.

27 (3) Forfeitures of employer contributions and investment income on the  
28 employer contributions may not be used to increase a member's retirement account.

1 The board shall allocate the forfeitures under 19-3-2116 to meet the plan's  
2 administrative expenses, ~~including startup expenses.~~"

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

10

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

12 **"19-3-2121. Determination and adjustment of plan choice rate and**

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

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

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

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

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

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

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

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

15 (b) During each subsequent actuarial valuation of the defined benefit plan  
16 conducted pursuant to 19-2-405, the board shall determine whether the plan choice  
17 rate minus the amount provided in subsection (2)(a) of this section is sufficient to pay  
18 the unfunded liability obligations within the schedule determined under subsection (4)(a)  
19 of this section. If the amount is insufficient to fund the liability over a period of ~~40~~ 17.5  
20 years longer than the scheduled period or is more than sufficient to fund the liability  
21 over a period of 10 years earlier than the scheduled period, the board shall determine  
22 to the nearest 0.1% the amount of the ~~increase or decrease~~ change in the plan choice  
23 rate that is required to actuarially fund the liabilities according to the established  
24 schedule.

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

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

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

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

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

20 {Internal References to 19-3-2121:  
21 19-2-303 19-2-407 19-3-2117 19-21-214 ok/ddb}

22  
23 **Section 4.** Section 19-7-404, MCA, is amended to read:

24 "**19-7-404. Employer contributions.** (1) The employer shall pay 9.535% the  
25 following amounts of the compensation paid to all of the employer's employees, except  
26 those properly excluded from membership:

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

1           **(b) 10.205% beginning July 1, 2006.**

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

7 {Internal References to 19-7-404: None. ok/ddb}

8  
9           **Section 5.** Section 19-20-101, MCA, is amended to read:

10           **"19-20-101. Definitions.** As used in this chapter, unless the context clearly  
11 indicates otherwise, the following definitions apply:

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

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

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

1 the 3-year period that constitute average final compensation must be included in  
2 average final compensation as provided under 19-20-716(1)(b).

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

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

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

11 (b) Earned compensation does not mean:

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

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

16 (A) professional membership dues;

17 (B) maintenance;

18 (C) housing;

19 (D) day care;

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

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

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

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

26 (c) Unless included pursuant to 19-20-716, earned compensation does not  
27 include termination pay.



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

4 (e) Earned compensation does not include:

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

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

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

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

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

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

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

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

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

27 (b) without disability; and

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

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

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

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

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

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

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

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

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

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

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

5 (b) Termination pay does not include:

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

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

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

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

17 {Internal References to 19-20-101:  
18 19-20-602 ok/ddb}

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

21 **"19-20-102. Retirement system -- policy.** (1) The state teachers' retirement  
22 system created under the provisions of Chapter 87, Laws of 1937, is hereby recognized  
23 as the state teachers' retirement system of the state of Montana, and no provisions of  
24 this chapter shall may not affect or impair the validity of any action taken by its  
25 governing board or the rights of any person arising under the provisions of Chapter 87,  
26 Laws of 1937, or any subsequent amendment ~~thereto~~ to this chapter. Such The state  
27 teachers' retirement system shall must be known as "The Teachers' Retirement System

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

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

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

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

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

13 {Internal References to 19-20-102:  
14 19-20-101 ok/ddb}

15  
16 **Section 7.** Section 19-20-501, MCA, is amended to read:

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

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

23 (2) The retirement board shall annually establish the rate of regular interest. ~~The~~  
24 ~~rate established by the board may not be less than 4%~~ at a positive number greater  
25 than 0%.

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 ok/ddb}

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) Each employer shall pay into the pension accumulation fund:

25 (a) an amount equal to 7.47% of the earned compensation of each member  
26 employed during the whole or part of the preceding payroll period; and

27 (b) the amount required to be paid under [section 13] as a supplemental

1 employer contribution.

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

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

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

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

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

17 {Internal References to 19-20-605:  
18 19-20-101 19-20-208 19-20-409 19-20-501  
19 19-20-716 19-20-806 }

20

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

22 **"19-20-621. Montana university system optional retirement program**

23 **supplemental contributions.** (1) Each employer within the university system with  
24 employees participating in the optional retirement program under Title 19, chapter 21,  
25 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  
27 teachers' retirement system for the university system members.

28 (2) The optional retirement program supplemental employer contribution as a

1 percentage of the total compensation of all employees participating in the program must  
2 increase to is:

- 3 ~~(a) 2.81% beginning July 1, 1997;~~
- 4 ~~—— (b) 3.12% beginning July 1, 1998;~~
- 5 ~~—— (c) 3.42% beginning July 1, 1999;~~
- 6 ~~—— (d) 3.73% beginning July 1, 2000; and~~
- 7 ~~—— (e)(a) 4.04% beginning July 1, 2001;~~
- 8 (b) 4.79% beginning July 1, 2006; and
- 9 (c) 5.54% beginning July 1, 2007.

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

13 {Internal References to 19-20-621:  
14 19-21-203 ok/ddb}

15

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

17 **"19-20-731. Postretirement employment limitations -- cancellation and**

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

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

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

26 (b) For the purpose of this subsection (1), the maximum compensation a retired  
27 member may earn under subsection (1)(a), without an adjustment of retirement

1 benefits, includes all remuneration paid to the retired member, including annuities and  
2 all allowances for motor vehicles and housing, plus the value of all taxable fringe  
3 benefits, including but not limited to:

4 (i) professional membership dues:

5 (ii) maintenance:

6 (iii) day care:

7 (iv) reimbursements for nonwork-related motor vehicle, travel, lodging, or  
8 entertaining expenses; or

9 (v) any similar payment for any form of maintenance, allowance, or expense.

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

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

17 (a) employed in a part-time position or earning more than allowed by  
18 subsections (1) and (2) must be temporarily reduced by \$1 for each dollar earned over  
19 the maximum allowed. Monthly benefits must be reduced beginning as soon as  
20 practical after the excess earnings have been reported to the retirement system by the  
21 employer. The retirement benefit must be canceled if the retired member's earnings  
22 over the maximum allowed exceed the gross monthly benefit amount.

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

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

27 (a) who was reemployed and earned less than 1 year of creditable service must



1 be reinstated beginning either the first of the month following termination or on July 1  
2 following the date on which the retired member was reemployed, whichever is later. The  
3 reinstated retirement benefit is the amount and option that the retired member would  
4 have been entitled to receive had the retired member not returned to employment.

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

13 (5) If an early-retired member under 19-20-802 is reemployed with the same  
14 employer within 30 days from the member's effective date of retirement or if the  
15 early-retired member is guaranteed reemployment with the same employer, the  
16 member must be considered to have continued in the status of an active member and  
17 not to have separated from service. Any retirement allowance payments received by the  
18 member must be repaid to the system, together with interest, at the actuarially assumed  
19 rate, and the retirement allowance must be canceled."

20 {Internal References to 19-20-731:  
21 19-20-208 19-20-302 19-20-806 ok/ddb}

22  
23 **Section 11.** Section 19-21-214, MCA, is amended to read:

24 **"19-21-214. Contributions and allocations for employees in positions**  
25 **covered under the public employees' retirement system.** (1) The contribution rates  
26 for employees in positions covered under the public employees' retirement system who  
27 elect to become program members pursuant to 19-3-2112 are as follows:

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

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

3 (2) Subject to ~~subsection~~ subsections (2)(c) and (3), the employer's contribution  
4 under subsection (1)(b) must be allocated as follows:

5 (a)(i) 4.49% of compensation must be allocated to the participant's program  
6 account;

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

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

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

13 (ii) beginning July 1, 2007, 1.64% of compensation must be allocated to the  
14 defined benefit plan to minimize the plan choice rate; and

15 (iii) beginning when the employer contribution under 19-3-316(3) terminates  
16 pursuant to 19-3-316(4), the allocation required under subsection (2)(b)(ii) also  
17 terminates.

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

21 {Internal References to 19-21-214:  
22 19-21-203 ok/ddb}

23  
24 **Section 12.** Section 20-3-324, MCA, is amended to read:

25 "**20-3-324. Powers and duties.** As prescribed elsewhere in this title, the  
26 trustees of each district shall:

27 (1) employ or dismiss a teacher, principal, or other assistant upon the

1 recommendation of the district superintendent, the county high school principal, or other  
2 principal as the board considers necessary, accepting or rejecting any recommendation  
3 as the trustees in their sole discretion determine, in accordance with the provisions of  
4 Title 20, chapter 4;

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

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

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

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

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

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

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

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

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

27 (11) establish, maintain, budget, and finance the transportation program of the

1 district in accordance with the provisions of the transportation parts of this title;

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

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

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

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

16 (16) operate the schools of the district in accordance with the provisions of the  
17 school calendar part of this title;

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

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

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

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

27 (21) retain, when considered advisable, a physician or registered nurse to

1 inspect the sanitary conditions of the school or the general health conditions of each  
2 pupil and, upon request, make available to any parent or guardian any medical reports  
3 or health records maintained by the district pertaining to the child;

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

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

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

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

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

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

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

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

27 (30) negotiate preretirement and postretirement contracts that limit

1 compensation included in the calculation of average final compensation and limit  
2 compensation earnable in a post retirement position, without an adjustment of  
3 retirement benefits, as provided in 19-20-731; and

4 ~~(30)~~(31) perform any other duty and enforce any other requirements for the  
5 government of the schools prescribed by this title, the policies of the board of public  
6 education, or the rules of the superintendent of public instruction."

7 {Internal References to 20-3-324:  
8 20-3-362 ok/ddb}

9

10 **NEW SECTION. Section 13. Supplemental employer contribution rate.**

11 Each employer shall pay into the pension accumulation fund as a supplemental  
12 employer contribution the following amounts of the earned compensation of each  
13 member for all of the employer's employees who are members of the system that are  
14 employed during the whole or part of the preceding payroll period:

- 15 (i) beginning July 1, 2006, through June 30, 2007, 1.15%;  
16 (ii) beginning July 1, 2007, through June 30, 2009, 2.3%; and  
17 (iii) beginning July 1, 2009, through June 30 of the fiscal year in which the board  
18 certification provided for in subsection (1)(b) is made, 3.45% .

19 (b) The supplemental employer contribution required under subsection (1)(a)  
20 terminates on the July 1 following the date that:

21 (i) the board certifies to the governor that an employer contribution rate of 7.47%  
22 is sufficient to allow the amortization schedule for the system's unfunded liabilities to be  
23 maintained at 30 years or less; and

24 (ii) reducing the employer contribution rate to 7.47% does not cause the  
25 amortization period as of the most recent actuarial valuation to exceed 30 years.

26 (c) The board shall periodically review the supplemental employer contribution  
27 rate provided in this section and recommend to the legislature adjustments needed to

1 maintain the amortization of unfunded liabilities in an actuarially sound manner.

2

3 NEW SECTION. **Section 14. Appropriations.** (1) The following money is  
4 appropriated for the biennium ending June 30, 2007, to implement the retirement  
5 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

8 Executive Branch

9 Office of Public Instruction

10 University System

11 Judicial Branch

12 Legislative Branch

13 Consumer Council

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

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

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

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

21 (d) \$10.9 million to be deposited to the credit of the public employees'  
22 retirement system's defined benefit plan.

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

25

26 NEW SECTION. **Section 15. {standard} Effective date.** [This act] is effective  
27 on passage and approval.

1 - END -

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7 **CI0425 5327dbxd.**

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