EXHIBIT 9
DATE 3-23-05
SB 370

SB 370 – MPERA PROPOSED AMENDMENT 3

Funding

OPTION A (State Contribution as Statutory Appropriation):

Amending the title: **Insert:** "PROVIDING A STATE CONTRIBUTION AND A STATUTORY APPROPRIATION;"

Amend Section 17-7-502 (statutory appropriations listing).

1. Page __, line __.

Insert: **Section 4.** Section 19-7-402, MCA, is amended to read:

"**19-7-402. Sources of money in fund.** The following money must be paid to the board, which shall credit the payments to the pension trust fund:

(1) all contributions by the various counties as required by this chapter;

(2) all contributions by members as required by this chapter;

(3) all interest on and increase of the investments and money under this chapter; ~~and~~

(4) <u>all general fund money as required by this chapter; and</u>

<u>(5)</u> any supplemental appropriation or revenue from a source or sources approved by the legislature or money received directly from the federal government for funding of law enforcement retirement systems.

2. Page __, following Section 4:

<u>NEW SECTION.</u> **Section 5.** The state of Montana shall make its contributions from the general fund. The general fund contributions must be made annually after the end of each fiscal year but no later than November 1. The board shall certify to the state treasurer by September 1 of each fiscal year the annual compensation paid to all active members during the preceding fiscal year. The state's contribution is an amount equal to 0.1% of the total compensation paid to the members. The state contributions are statutorily appropriated, as provided in 17-7-502, to the pension trust fund.

3. Page __, following Section 5:

<u>NEW SECTION.</u> **Section 6 {standard} Codification.** [Section 5] is intended to be codified as an integral part of Title 19, chapter 7, part 4, and the provisions of Title 19, chapter 7, part 4 apply to [section 5].

HB 370 – MPERA PROPOSED AMENDMENT 3

OPTION B (County Funding):

1. Page 3, line 19.
Insert: **Section 4.** Section 19-7-404, MCA, is amended to read:

"**19-7-404. Employer contributions.** (1) The employer shall pay monthly ~~9.535%~~ 9.635% of each member's gross compensation into the pension trust fund created by this chapter.

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

2. Coordination:
If this bill and HB148 are both enacted, Section 4 of HB148 is amended to read as follows (amendment in bold italics):

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

"**19-7-404. Employer contributions.** (1) ~~The~~ Except as provided in subsection (3), the employer shall pay monthly ***~~9.535%~~ 9.635%*** of each member's gross compensation into the pension trust fund created by this chapter.

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

(3) Subject to subsection (4), in addition to the contribution required under subsection (1), each employer shall contribute to the system an additional sum equal to 1.2% of the compensation paid to all of the employer's employees, except those properly excluded from membership, increasing to 2.4% beginning July 1, 2007.

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

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

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

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

Legislative Audit Division

Financial-Compliance Audit
For the Two Fiscal Years Ended June 30, 2004

Public Employees' Retirement Board

Department of Administration

A component unit of the state of Montana

Members of the audit staff involved in this audit were Pearl M. Allen, Jeane Carstensen-Garrett, Melissa Heinert, and Laura L. Norris.

Three Retirement Systems Actuarially Unsound

Based on the July 1, 2004, actuarial valuations, the Public Employees' Retirement System – Defined Benefit Retirement Plan (PERS – DBRP), Sheriffs' Retirement System (SRS), and Game Wardens' and Peace Officers' Retirement System (GWPORS) are not actuarially sound, contrary to the Montana Constitution and state law.

Article VIII, Section 15, of the Montana Constitution requires public retirement systems be funded on an actuarially sound basis. State law defines a defined benefit retirement system as actuarially sound when its contributions are sufficient to pay the full actuarial cost of the plan over a period of up to 30 years.

The PERB obtains an actuarial valuation of each of its eight defined benefit retirement plans biennially. The most recent actuarial valuation was as of July 1, 2004. The PERB actuary determined the employer contribution rate would have to be increased as follows, starting July 1, 2005, to maintain an amortization of the UAAL over the 30-year period starting July 1, 2004:

PERS – DBRP	1.19%; from 6.9% to 8.09%;
SRS	2.15%; from 9.535% to 11.685%; and
GWPORS	.23%; from 9.00% to 9.23%.

The UAAL for each system has grown at an increasing rate, as shown in Table 1.

Table 1

Unfunded Actuarial Accrued Liability*

Valuation Date	PERS-DBRP	SRS	GWPORS
7/1/2000[a]	($569,940,000)	($38,502,000)	($9,044,000)
7/1/2000[b]	(251,540,000)	(26,002,000)	(5,544,000)
7/1/2002[b]	983,000	(16,965,000)	379,000
7/1/2004[b]	466,798,000	7,586,000	5,100,000

* The negative amounts indicate the systems did not have an unfunded actuarial accrued liability.

[a] Does not include the effects of legislation passed in the 2001 Legislative session.

[b] Includes the effects of legislation passed in the 2001 Legislative session.

Source: Compiled by the Legislative Audit Division from actuarial reports.

In the July 1, 2004, valuation, the PERB actuary determined the UAAL for these three systems does not amortize without an increase in contributions. In the July 1, 2002, valuation, the PERB actuary determined the amortization period was .1 year for PERS-DBRP and approximately 30 years for each SRS and GWPORS. The actuary attributed the growth in the unfunded liability of the systems primarily to actuarial investment returns below the actuarial investment return assumption of eight percent for all three systems.

The PERB Funding and Benefits Policy states, "Whenever, through the use of long-term cash flow projections, the amortization period of a system's unfunded liabilities is projected to exceed 30 years for two consecutive valuations and the Board cannot reasonably anticipate that the amortization period would decline without an increase in funding sources, it is the obligation of PERB to recommend to the legislature that funding be increased."

Because the July 1, 2004, actuarial valuation projected an amortization period of the unfunded liabilities that exceeds 30 years for the PERS-DBRP, SRS, and GWPORS, the PERB should seek legislation for funding changes, as required by board policy. PERB plans to submit legislation to the 2005 legislature changing contribution rates to make the retirement systems actuarially sound.

<u>**Recommendation #1**</u>

We recommend the PERB seek legislation for funding changes to ensure the PERS-DBRP, SRS, and GWPORS are funded on an actuarially sound basis, as required by PERB policy and the Montana Constitution.

HOUSE BILL NO. 243

INTRODUCED BY LAMBERT

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PAYMENT OF COSTS AT A DETENTION CENTER; REQUIRING THE DEPARTMENT OF CORRECTIONS TO PAY THE COSTS FOR HOLDING A PROBATION OR PAROLE VIOLATOR IN A COUNTY DETENTION CENTER IF THE DEPARTMENT IS THE ARRESTING AGENCY; REQUIRING THE DEPARTMENT OF CORRECTIONS TO PAY THE COSTS FOR HOLDING A PERSON IN A COUNTY DETENTION CENTER FROM THE DATE OF ~~CONVICTION~~ A PLEA OR VERDICT OF GUILTY; AMENDING SECTION 7-32-2242, MCA; AND PROVIDING AN ~~IMMEDIATE~~ EFFECTIVE DATE."

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

Section 1. Section 7-32-2242, MCA, is amended to read:

"7-32-2242. Use of detention center -- payment of costs. (1) Local government, state, and federal law enforcement and correctional agencies may use any detention center for the confinement of arrested persons and the punishment of offenders~~,~~ under conditions imposed by law and with the consent of the governing body responsible for the detention center.

(2) (a) If a person is confined in a detention center by an arresting agency that is not responsible for the operation of the detention center, the costs of holding the person in confinement must be paid by the arresting agency at a rate that is agreed upon by the arresting agency and the detention center and that covers the reasonable costs of confinement, excluding capital construction costs, except as provided in 7-32-2245 or subsection (2)(b) of this section.

(b) If a city or town commits a person to the detention center of the county in which the city or town is located for a reason other than detention pending trial for or detention for service of a sentence for violating an ordinance of that city or town, the costs must be paid by the county, except as provided in 7-32-2245. If the department of corrections is the arresting agency and the inmate is a probation or parole violator, the costs must be paid by the ~~county in which the district court that retains jurisdiction over the inmate is located~~ department, except as provided in 7-32-2245.

(c) The department of corrections is responsible for the costs of confinement of a person in a detention center from the date of an acceptance of a plea or a verdict or finding of guilty until the person is transferred to a state correctional facility.

~~(c)~~(d) ~~Payments~~ Upon presentation of a claim to the arresting agency, payments must be made to the government unit responsible for the detention center or to the administrator operating a private detention center under an agreement provided for in 7-32-2201~~, upon presentation of a claim to the arresting agency~~.

(3) If a person is a fugitive from justice from an out-of-state jurisdiction, the costs, including medical expenses, of holding the person in a detention center pending extradition must be paid by the out-of-state jurisdiction."

NEW SECTION. **Section 2. Effective date.** [This act] is effective ~~on passage and approval~~ JULY 1, 2005.

- END -

FISCAL NOTE

Bill #:	HB0243	**Title:**	Revise reimbursement of county for detention costs
Primary Sponsor:	Lambert, C	**Status:**	As introduced

Carl Lambert 1-14-05
Sponsor Signature Date

D. Ewer 1/12/05
David Ewer, Budget Director Date

Fiscal Summary

	FY 2005 Difference	FY 2006 Difference	FY 2007 Difference
Expenditures:			
General Fund	$415,518	$1,662,073	$1,662,073
Revenue:			
General Fund	$0	$0	$0
Net Impact on General Fund Balance:	($415,518)	($1,662,073)	($1,662,073)

☐	Significant Local Gov. Impact	☐	Technical Concerns
☐	Included in the Executive Budget	☒	Significant Long-Term Impacts
☐	Dedicated Revenue Form Attached	☒	Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

1. The FY 2005 average daily contract rate in county jails for males and females is $54.27 per day.
2. The Department of Corrections would be required to pay for probation violator time in county jail from arrest to court revocation action date. In FY 2003 there were 678 probation violators processed.
3. The time between arrest and court revocation for probation violators is as follows: 50 percent stay an additional four days, 25 percent stay an additional 16 days, 25 percent stay an additional 35 days. [(678 violators x 50 percent x 4 days x $54.27=$73,590.12) + (678 violators x 25 percent x 16 days x $54.27=$147,180.24) + (678 violators x 25 percent x 35 days x $54.27=$321,956.78)]
4. DOC would be required to pay for days between conviction and sentencing of new commitments. In FY 2003 there were 710 new commitments.
5. The time between plea or verdict and sentencing for new commits is as follows: 11 percent are sentenced upon conviction, 44 percent stay an additional 20 days, 45 percent stay 45 days. [(710 commits x 44 percent x 20 days x $54.27=$339,078.96) + (710 commits x 45 percent x 45 days x $54.27=$780,266.93)]

HB 243

6. This bill becomes effective upon passage and approval and could incur additional expenditures for April, May and June 2005. The total additional expenditures could be 25 percent of the full year total or a total of $415,518.26. These costs will be incurred in FY 2005 and are unbudgeted. No funds are available in the FY 2005 budget for these new DOC costs.

FISCAL IMPACT:

	FY 2005 Difference	FY 2006 Difference	FY 2007 Difference
Expenditures:			
Operating Expenses	$415,518	$1,662,073	$1,662,073
Funding of Expenditures:			
General Fund (01)	$415,518	$1,662,073	$1,662,073
Revenues:			
General Fund (01)	$0	$0	$0
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):			
General Fund (01)	($415,518)	($1,662,073)	($1,662,073)