

1 SENATE BILL NO. 71

2 INTRODUCED BY B. HAWKS

3 BY REQUEST OF THE OFFICE OF PUBLIC INSTRUCTION

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING SCHOOL DISTRICTS AND COOPERATIVES TO PAY
6 CERTAIN EMPLOYEE BENEFITS FROM THE FEDERAL EDUCATION JOBS FUND; AMENDING SECTION
7 20-9-501, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY
8 DATE."

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

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12 **Section 1.** Section 20-9-501, MCA, is amended to read:

13 **"20-9-501. Retirement costs and retirement fund.** (1) The trustees of a district or the management
14 board of a cooperative employing personnel who are members of the teachers' retirement system or the public
15 employees' retirement system, who are covered by unemployment insurance, or who are covered by any federal
16 social security system requiring employer contributions shall establish a retirement fund for the purposes of
17 budgeting and paying the employer's contributions to the systems as provided in subsection (2)(a). The district's
18 or the cooperative's contribution for each employee who is a member of the teachers' retirement system must
19 be calculated in accordance with Title 19, chapter 20, part 6. The district's or the cooperative's contribution for
20 each employee who is a member of the public employees' retirement system must be calculated in accordance
21 with 19-3-316. The district's or the cooperative's contributions for each employee covered by any federal social
22 security system must be paid in accordance with federal law and regulation. The district's or the cooperative's
23 contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title
24 39, chapter 51, part 11.

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

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

29 (ii) a cooperative employee whose salary and health-related benefits, if any health-related benefits are
30 provided to the employee, are paid from the cooperative's interlocal cooperative fund if the fund is supported

1 solely from districts' general funds and state special education allowable cost payments, pursuant to 20-9-321,
2 or are paid from the miscellaneous programs fund, provided for in 20-9-507, from money received from the
3 medicaid program, pursuant to 53-6-101;

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

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

8 (v) for the 2011 biennium only, a district employee whose salary and health-related benefits, if any
9 health-related benefits are provided to the employee, are budgeted in the district general fund but are paid from
10 state fiscal stabilization funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public
11 Law 111-5 or the Education Jobs Fund, Public Law 111-226.

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

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

19 (4) When the final retirement fund budget has been adopted, the county superintendent shall establish
20 the levy requirement by:

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

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

24 (ii) oil and natural gas production taxes;

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

26 (iv) any fund balance available for reappropriation as determined by subtracting the amount of the
27 end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal
28 year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating
29 reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must
30 be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund

1 budget.

2 (v) any other revenue anticipated that may be realized in the retirement fund during the ensuing school
3 fiscal year, excluding any guaranteed tax base aid.

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

7 (5) The county superintendent shall:

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

11 (b) report each levy requirement to the county commissioners on the fourth Monday of August as the
12 respective county levy requirements for elementary district, high school district, and community college district
13 retirement funds.

14 (6) The county commissioners shall fix and set the county levy or district levy in accordance with
15 20-9-142.

16 (7) The net retirement fund levy requirement for a joint elementary district or a joint high school district
17 must be prorated to each county in which a part of the district is located in the same proportion as the district ANB
18 of the joint district is distributed by pupil residence in each county. The county superintendents of the counties
19 affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.

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

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

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

- 1 (b) the taxable valuation of the district divided by 1,000.
- 2 (10) The levy for a community college district may be applied only to property within the district.
- 3 (11) The county superintendent of each county shall submit a report of the revenue amounts used to
- 4 establish the levy requirements for county school funds supporting elementary and high school district retirement
- 5 obligations to the superintendent of public instruction not later than the second Monday in September. The report
- 6 must be completed on forms supplied by the superintendent of public instruction."

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8 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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10 NEW SECTION. **Section 3. Retroactive applicability.** [This act] applies retroactively, within the

11 meaning of 1-2-109, to employee benefits paid on or after July 1, 2010.

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