

## 1 HOUSE BILL NO. 116

2 INTRODUCED BY P. INGRAHAM

3 BY REQUEST OF THE TEACHERS' RETIREMENT BOARD

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5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR ACTUARIAL FUNDING OF THE TEACHERS'  
6 RETIREMENT SYSTEM; ESTABLISHING EMPLOYER LIABILITY REGARDING REPORTS RELATING TO  
7 RETIRED MEMBERS; CHANGING THE ACTUARIAL INTEREST RATE ON SERVICE PURCHASE  
8 AGREEMENTS; AMENDING PROVISIONS GOVERNING WORKING RETIREES; INCREASING THE STATE  
9 SUPPLEMENTAL CONTRIBUTION TO THE RETIREMENT SYSTEM; REVISING CAPS ON COMPENSATION  
10 THAT CAN BE USED IN THE CALCULATION OF AVERAGE FINAL COMPENSATION; PROVIDING FOR A  
11 FULL ACTUARIAL REDUCTION FOR EARLY RETIREMENT; AMENDING SECTIONS 19-20-208, 19-20-402,  
12 19-20-403, 19-20-404, 19-20-408, 19-20-410, 19-20-416, 19-20-427, 19-20-607, 19-20-715, 19-20-731, AND  
13 19-20-802, MCA; AND PROVIDING AN EFFECTIVE DATE."

14

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

16

17 **Section 1.** Section 19-20-208, MCA, is amended to read:18 **"19-20-208. Duties and liability of employer.** (1) Each employer shall:19 (1)(a) pick up the contribution of each employed member at the rate prescribed by 19-20-602 and  
20 transmit the contribution each month to the executive director of the retirement board;21 (2)(b) transmit to the executive director of the retirement board the employer's contribution prescribed  
22 by 19-20-605, at the time that the employee contributions are transmitted;23 (3)(c) keep records and, as required by the retirement board, furnish information to the board that is  
24 required in the discharge of the board's duties;25 (4)(d) upon the employment of a person who is required to become a member of the retirement system,  
26 inform the person of the rights and obligations relating to the retirement system;27 (5)(e) each month, report the name, social security number, and gross earnings of each retired member  
28 of the system who has been employed in a part-time teaching, administrative, or faculty position under the  
29 reemployment provisions of 19-20-731;

30 (6)(f) whenever applicable, inform an employee of the right to elect to participate in the optional

1 retirement program under Title 19, chapter 21;

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

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

6 ~~(9)(i)~~ if the employer has converted to earned compensation amounts excluded from earned  
7 compensation, for each retiring member, certify to the board the amounts reported to the system in each of the  
8 5 years preceding the member's retirement.

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

13

14 **Section 2.** Section 19-20-402, MCA, is amended to read:

15 **"19-20-402. Creditable service for employment in out-of-state public and federal schools.** (1) (a)

16 A member who has 5 years of active membership service, who has completed 1 full year of active membership  
17 in Montana subsequent to the member's out-of-state service, and who contributes to the retirement system as  
18 provided in subsection (2) may receive creditable service in the retirement system for out-of-state service that  
19 would have been acceptable under the provisions of this chapter if the service had been performed in the state  
20 of Montana.

21 (b) If the member contributed to a public retirement plan, other than social security, while performing the  
22 out-of-state service, the member shall roll the member's contributions over into the retirement system or must  
23 receive a refund of the member's contributions for the service before purchasing service under this section.

24 (c) For the purpose of this section, out-of-state service means service performed:

25 (i) within the United States in a federal or other public school or institution; and

26 (ii) outside the United States in a federal or other public or private school or institution.

27 (2) (a) To purchase the service described in subsection (1)(c)(i), a member who became a member  
28 before July 1, 1989, shall contribute for each year of service to be purchased an amount equal to the combined  
29 employer and employee contribution for the member's first full year's teaching salary earned in Montana after the  
30 member's out-of-state service, plus interest. The contribution rate must be the rate in effect at the time the

1 member is eligible for the service.

2 (b) To purchase the service described in subsection (1)(c)(ii), a member who became a member before  
3 July 1, 1989, shall contribute for each year of service to be purchased an amount equal to the combined employer  
4 and employee contribution for the member's first full year's teaching salary earned in Montana after the member's  
5 out-of-state service or after the salary was reported to the system for the fiscal year beginning July 1, 1989,  
6 whichever date is later, plus interest. The contribution rate must be the rate in effect at the time the member is  
7 eligible to purchase the service or the rate in effect on July 1, 1989, whichever date is later.

8 (c) For each year of service to be credited under this section, a member who became a member on or  
9 after July 1, 1989, shall contribute the actuarial cost of the service based on the most recent valuation of the  
10 system.

11 (3) The interest on contributions required under subsection (2)(a) must be paid:

12 (a) if a written application to purchase service was signed prior to July 1, 2012, at the rate that the  
13 contributions would have earned had the contributions been in the member's account from the date the member  
14 was eligible to purchase the service; or

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

17 (4) The contributions and interest required under subsection (2) may be made in a lump-sum payment  
18 or in installments as agreed between the member and the retirement board.

19 (5) The provisions of 19-20-405 apply to creditable service purchased under this section."  
20

21 **Section 3.** Section 19-20-403, MCA, is amended to read:

22 **"19-20-403. Creditable service for employment while on leave.** (1) (a) A member who is eligible under  
23 subsection (1)(b) and who contributes to the retirement system as provided in subsection (2) may receive up to  
24 2 years of creditable service for employment while on leave.

25 (b) To be eligible to purchase service under this section, a member must have at least 5 years of  
26 membership service in the retirement system, must have been a member prior to the leave, and must have  
27 completed 1 year of active membership in Montana subsequent to the member's return.

28 (2) (a) For each year of service to be credited, a member who became a member before July 1, 1989,  
29 shall contribute for each year of service to be purchased an amount equal to the combined employer and  
30 employee contributions for the member's first full year's teaching salary earned in Montana after the member's

1 return from leave, plus interest.

2 (b) For each year of service to be credited under this section, a member who became a member on or  
3 after July 1, 1989, shall contribute the actuarial cost of the service based on the most recent actuarial valuation  
4 of the system.

5 (3) The interest on contributions required under subsection (2)(a) must be paid:

6 (a) if a written application to purchase service was signed prior to July 1, 2012, at the rate that the  
7 contributions would have earned had the contributions been in the member's account from the date the member  
8 was eligible to purchase the service; or

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

11 (4) The contributions and interest may be made in a lump-sum payment or in installments as agreed  
12 between the member and the retirement board.

13 (5) The provisions of 19-20-405 apply to creditable service purchased under this section."  
14

15 **Section 4.** Section 19-20-404, MCA, is amended to read:

16 **"19-20-404. Creditable service for active service in military, red cross, or merchant marine.** (1) A  
17 member may receive up to 4 years of creditable service without cost for active service in the armed forces of the  
18 United States, which includes the army, navy, marine corps, air force, and coast guard, during the Korean war  
19 between June 1, 1950, and January 31, 1955, and the Vietnam conflict between December 22, 1961, and May  
20 7, 1975, dates inclusive, if the member has 5 years or more of creditable service in the retirement system. To  
21 receive credit for this service, a member shall submit to the board a written application and proper certification  
22 of the member's military service.

23 (2) (a) If a member is ineligible for service credit under subsection (1), the member may apply under the  
24 provisions of this subsection (2)(a) for creditable service in the retirement system for active service in the armed  
25 forces of the United States, which includes the army, navy, marine corps, air force, and coast guard, or in the  
26 American red cross or merchant marine. The person must be awarded creditable service, conditional upon the  
27 person's completing 5 years of active membership in Montana, for the number of years, not exceeding 2, that the  
28 retirement board determines to be creditable service; if the person contributes to the retirement system an amount  
29 equal to the combined employer and employee contributions for the person's first full year's teaching salary  
30 earned in Montana following the active service in the armed forces of the United States, the American red cross,

1 or the merchant marine for each year of creditable service plus interest paid as follows:

2 (i) if a written application to purchase service is signed prior to July 1, 2012, at the rate the contribution  
3 would have earned had the contribution been in the person's account upon completion of 5 years of membership  
4 service in Montana; or

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

7 (b) The contribution rate is that rate in effect at the time the person is eligible for the service.

8 (3) The contribution required under subsection (2) may be made in a lump-sum payment or in  
9 installments as agreed between the person and the retirement board."

10

11 **Section 5.** Section 19-20-408, MCA, is amended to read:

12 **"19-20-408. Creditable service for employment in private schools.** (1) (a) A member who has at least  
13 5 years of membership service, who has completed 1 full year of active membership subsequent to the member's  
14 private school employment, and who contributes to the retirement system as provided in subsection (2) may  
15 receive up to 5 years of creditable service in the retirement system for employment within the United States in  
16 a private elementary, secondary, or postsecondary educational institution.

17 (b) Employment to be credited must be of an instructional nature, as an administrative officer, or as a  
18 member of the scientific staff. If the employment is for teaching kindergarten through grade 12, the service must  
19 have been performed as a certified teacher.

20 (c) Members may not receive credit for service as a student employed by a private elementary,  
21 secondary, or postsecondary educational institution.

22 (2) (a) For each year of service to be credited, a member who became a member before July 1, 1989,  
23 shall contribute to the retirement system an amount equal to the combined employer and employee contribution  
24 for the member's first full year's teaching salary earned after becoming a member of the retirement system or after  
25 returning to the retirement system, whichever is later, plus interest. The contribution rate must be that rate in  
26 effect at the time the member is eligible to purchase the service.

27 (b) For each year of service to be credited under this section, a member who became a member on or  
28 after July 1, 1989, shall contribute the actuarial cost of the service based on the most recent valuation of the  
29 system.

30 (3) The interest on contributions required under subsection (2)(a) must be paid:

1           (a) if a written application to purchase service was signed prior to July 1, 2012, at the rate that the  
 2 contributions would have earned had the contributions been in the member's account from the date the member  
 3 was eligible to purchase the service; or

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

6           (4) The contributions and interest may be made in lump-sum payment or in installments as agreed  
 7 between the person and the retirement board.

8           (5) The provisions of 19-20-405 apply to creditable service purchased under this section."  
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10           **Section 6.** Section 19-20-410, MCA, is amended to read:

11           **"19-20-410. Creditable service for extension service employment.** (1) (a) At any time before  
 12 retirement, a member with 5 years or more of creditable service in the retirement system may file a written  
 13 application with the retirement board to purchase up to 5 years of employment service with the Montana  
 14 cooperative extension service, subject to the limitation contained in 19-20-405, if:

15           (i) the member became a member of the retirement system before July 1, 1989;

16           (ii) the service involved instructional service at a unit of the Montana university system; and

17           (iii) the member received a refund of membership contributions under the civil service retirement system  
 18 or the federal employees' retirement system for the service to be purchased.

19           (b) For each year of service to be purchased under subsection (1)(a), the member shall contribute to the  
 20 retirement system an amount equal to the combined employer and employee contribution rate in effect at the time  
 21 that the member is eligible to purchase the service multiplied by the member's first full year's teaching salary  
 22 earned after becoming a member of the retirement system, plus interest paid as follows:

23           (i) if a written application to purchase service was signed prior to July 1, 2012, at the rate that the  
 24 contribution would have earned had the contribution been in the member's account upon the completion of 5  
 25 years of membership service; or

26           (ii) if a written application to purchase service is signed after July 1, 2012, at the actuarially assumed  
 27 interest rate in effect on the date the written application is signed.

28           (2) In addition to service purchased under subsection (1) and subject to 19-20-407, a member who has  
 29 purchased 5 years or more of creditable service in the retirement system may purchase additional years of  
 30 cooperative extension service by contributing to the system the full actuarial cost of the service.

1 (3) Contributions to purchase service under this section may be made in a lump-sum payment or in  
2 installments as agreed upon by the member and the retirement board."

3

4 **Section 7.** Section 19-20-416, MCA, is amended to read:

5 **"19-20-416. Credit for legislative service required.** (1) A legislator who did not elect to continue to  
6 participate in the system, as provided under 5-2-304, and who subsequently participates as a member must be  
7 awarded creditable service for legislative service if the legislator contributes:

8 ~~—— (a) an amount equal to the member contributions that would have been made if the legislator had elected~~  
9 membership; ~~and~~

10 ~~—— (b) plus interest paid as follows:~~

11 ~~(a) if a written application to purchase service was signed prior to July 1, 2012, at the rate that the~~  
12 contributions would have earned if they had been on deposit with the retirement system; ~~or~~

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

15 (2) The employer contribution must be made by the legislative branch in the amount that would have  
16 been contributed if the legislator had elected membership plus interest at the rate that the contributions would  
17 have earned if they had been on deposit with the retirement system."

18

19 **Section 8.** Section 19-20-427, MCA, is amended to read:

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

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

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

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

30

1           **Section 9.** Section 19-20-607, MCA, is amended to read:

2           **"19-20-607. Supplemental state contribution.** (1) Each month, the state shall contribute, as a  
3 supplemental contribution to the teachers' retirement system, from the general fund to the pension trust fund an  
4 amount equal to:

5           ~~\_\_\_\_\_ (a) beginning July 1, 2007, through June 30, 2009, 2% of the total earned compensation of school district  
6 and community college active members participating in the system; and~~

7           ~~\_\_\_\_\_ (b) beginning July 1, 2009, 2.38% of the total earned compensation of school district and community  
8 college active members participating in the system.~~

9           (2) Beginning July 1, 2011, the supplemental contribution rate required by subsection (1) must increase  
10 by 0.5% on July 1 of each year until July 1, 2023, unless the amortization period as of the most recent valuation  
11 is less than or equal to 30 years.

12           ~~(2)(3)~~ The contributions are statutorily appropriated, as provided in 17-7-502, to the pension trust fund.  
13 The board shall determine and shall certify to the state treasurer amounts due under this section on a monthly  
14 basis. The state treasurer shall transfer the certified amounts to the pension trust fund within 1 week following  
15 receipt of the certification from the board."

16

17           **Section 10.** Section 19-20-715, MCA, is amended to read:

18           **"19-20-715. Compensation limit.** (1) Compensation in excess of the limitations set forth in section  
19 401(a)(17) of the Internal Revenue Code as adjusted for cost-of-living increases must be disregarded for  
20 individuals who are not eligible employees. The limitation on compensation for eligible employees may not be less  
21 than the amount that was allowed to be taken into account under this chapter on July 1, 1993. For purposes of  
22 this section, an eligible employee is an individual who was a member in the retirement system prior to July 1,  
23 1996. Any changes in the maximum limits under section 401(a)(17) of the Internal Revenue Code must be applied  
24 prospectively.

25           (2) In determining a member's retirement allowance under 19-20-802 or 19-20-804, the compensation  
26 reported in each year of the 3 years that make up the average final compensation may not be greater than 110%  
27 of the previous year's compensation included in the calculation of average final compensation or the earned  
28 compensation reported to the retirement system, whichever is less, ~~except as provided by rule by the retirement~~  
29 ~~board~~ increases that result from movement on the employer's adopted salary matrix.

30           (3) Earned compensation in excess of the amount specified in subsection (2) is considered termination



1 pay and must be included in the calculation of average final compensation as provided in 19-20-716(1)(b)."

2

3 **Section 11.** Section 19-20-731, MCA, is amended to read:

4 **"19-20-731. Postretirement employment limitations -- cancellation and recalculation of benefits**  
5 **-- reporting obligations of retired member.** (1) (a) Except as [provided in 19-20-732 or as] otherwise provided

6 in this section, a retired member may be employed ~~part-time~~ by a school district, state agency, or unit of the  
7 university system in a position eligible to participate in the retirement system and may earn, without an adjustment  
8 of retirement benefits, an amount not to exceed the greater of:

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

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

12 (b) For the purposes of this subsection (1), the maximum compensation that a retired member may earn  
13 under subsection (1)(a) without an adjustment of retirement benefits includes all remuneration paid to the retired  
14 member, excluding:

15 (i) the amount of health insurance premiums paid by the employer on the retired member's behalf;

16 (ii) the value of housing provided by the employer to the retired member;

17 (iii) the amount of employment-related travel expenses reimbursed to the retired member by the  
18 employer;

19 (iv) de minimis fringe benefits, as defined in 26 U.S.C. 132(e), paid by the employer to or on behalf of the  
20 retired member; and

21 (v) payroll taxes paid by the employer on behalf of the retired member.

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

26 (3) Except as provided in [19-20-732 and] 19-20-733, the retirement benefit of a retired member:

27 ~~—— (a) employed in a part-time position or~~ and earning more than allowed by subsections (1) and (2) must  
28 be temporarily reduced by \$1 for each dollar earned over the maximum allowed. Monthly benefits must be  
29 reduced beginning as soon as practical after the excess earnings have been reported to the retirement system  
30 by the employer. The retirement benefit must be canceled if the retired member's earnings over the maximum

1 allowed exceed the gross monthly benefit amount.

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

4 (4) For purposes of this section, "position ~~eligible to participate in~~ that is reportable to the retirement  
5 system" includes work performed by a retiree through a professional employer arrangement, an employee leasing  
6 arrangement, or a temporary service contractor, as those terms are defined in 39-8-102.

7 (5) For the purposes of this section, if a retired member is employed by an employer in a position that  
8 is reportable to the retirement system and the retired member is concurrently working for the employer in another  
9 position that is not reportable to the system, the position that is not reportable is considered to be part of the  
10 position that is reportable to the retirement system. All earnings of the retired member that are generated by these  
11 positions are reportable to the retirement system.

12 ~~(5)(6)~~ The retirement allowance of any retired member who is employed in a position and who elects to  
13 participate in the optional retirement program under Title 19, chapter 21, must be suspended until the member  
14 is no longer employed in the position and is no longer participating in the optional retirement program. (Bracketed  
15 language terminates June 30, 2015--sec. 5, Ch. 129, L. 2009.)"

16

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

18 **"19-20-802. Early retirement.** (1) A member who is not eligible for service retirement but who has at  
19 least 5 years of creditable service and who has attained the age of 50 may retire from service and be eligible for  
20 an early retirement allowance if the member files with the retirement board the member's written application.

21 (2) The early retirement allowance must be determined as prescribed in 19-20-804 ~~and section 5,~~  
22 ~~Chapter 549, Laws of 1981,~~ with the exception that the allowance will be reduced ~~as follows:~~

23 ~~—— (a) by 1/2 of 1% multiplied by the number of months up to a maximum of 60 months by which the~~  
24 ~~retirement date precedes the date on which the member would have retired had the member attained 60 years~~  
25 ~~of age or had the member completed 25 years of creditable service; and~~

26 ~~—— (b) by 3/10 of 1% multiplied by the number of months in excess of the 60 months in subsection (2)(a)~~  
27 ~~but not to exceed 60 additional months that the retirement date precedes the date on which the member would~~  
28 ~~have retired had the member attained 60 years of age or had the member completed 25 years of creditable~~  
29 ~~service using actuarially equivalent factors based on the most recent valuation of the system."~~

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