

## 1 HOUSE BILL NO. 454

2 INTRODUCED BY B. MCCHESENEY

3 BY REQUEST OF THE OFFICE OF BUDGET AND PROGRAM PLANNING

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FUNDING FOR THE PUBLIC EMPLOYEES'  
6 RETIREMENT SYSTEM; PROVIDING THAT THE UNALLOCATED PORTION OF COAL SEVERANCE TAX  
7 COLLECTIONS IS STATUTORILY APPROPRIATED TO THE PUBLIC EMPLOYEES' DEFINED BENEFIT  
8 RETIREMENT PLAN; REVISING THE ALLOCATION OF INTEREST INCOME FROM THE COAL TAX  
9 PERMANENT FUND AND PROVIDING A STATUTORY APPROPRIATION OF A PORTION OF THE INTEREST  
10 INCOME TO THE PUBLIC EMPLOYEES' DEFINED BENEFIT RETIREMENT PLAN; AMENDING THE  
11 TERMINATION DATE FOR THE TRANSFER OF CERTAIN MONEY FROM THE COAL SEVERANCE TAX  
12 BOND FUND TO THE TREASURE STATE ENDOWMENT FUND AND THE TREASURE STATE ENDOWMENT  
13 REGIONAL WATER SYSTEM FUND; TEMPORARILY INCREASING EMPLOYEE AND EMPLOYER  
14 CONTRIBUTIONS TO THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; REVISING THE GUARANTEED  
15 ANNUAL BENEFIT ADJUSTMENT FOR NEW AND CURRENT MEMBERS; PROVIDING AN APPROPRIATION  
16 TO THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM FOR EACH YEAR OF THE BIENNIUM; AMENDING  
17 SECTIONS 15-35-108, 17-5-703, 19-3-315, 19-3-316, 19-3-1605, AND 19-3-2117, MCA; AMENDING SECTION  
18 6, CHAPTER 495, LAWS OF 1999, AND SECTIONS 15 AND 16, CHAPTER 389, LAWS OF 2011; AND  
19 PROVIDING AN EFFECTIVE DATE."

20  
21 WHEREAS, Article VIII, section 15, of the Montana Constitution requires that "Public retirement systems  
22 shall be funded on an actuarially sound basis" and that "Public retirement system assets, including income and  
23 actuarially required contributions, shall not be encumbered, diverted, reduced, or terminated and shall be held  
24 in trust to provide benefits to participants and their beneficiaries and to defray administrative expenses"; and

25 WHEREAS, the unprecedented collapse of the financial markets in 2008 through 2009 and the  
26 subsequent slow rate of economic recovery have resulted in little or no prospect that current statutory contribution  
27 rates together with future market returns will be sufficient to fund the Public Employees' Retirement System on  
28 an actuarially sound basis, and current contributions remain insufficient to pay the past and future accruals of  
29 retirement benefits for members currently in the system; and

30 WHEREAS, failure to return the system to a position of actuarially sound funding places the benefits to

1 be paid to current system participants in jeopardy and results in collection of employee contributions for which  
 2 future benefits may not be guaranteed; and

3 WHEREAS, the current and increasing level of unfunded liabilities has the potential to compromise the  
 4 credit ratings of the state of Montana and of local government entities, including public school districts; and

5 WHEREAS, because reasonable increases in employer contributions and reasonable reductions in  
 6 benefits for future participants alone will not be sufficient to return the system to a position of actuarially sound  
 7 funding, a reasonable increase in contributions for current participants is necessary to help return the system to  
 8 a position of actuarially sound funding; and

9 WHEREAS, during the past two legislative sessions and interims, the Legislature, interim committees,  
 10 the retirement system board and staff, and the Governor's office have analyzed and enacted alternatives for  
 11 returning the system to a position of actuarially sound funding without raising contract impairment issues for  
 12 current members, which have failed to reduce system costs enough to restore the system to actuarial soundness;  
 13 and

14 WHEREAS, in light of significant strains on the Montana economy, on state and local government  
 15 budgets, and on taxpayers, a modest supplemental contribution rate increase of 1% imposed on current  
 16 members, with an appropriate mechanism to terminate the supplemental contribution rate as system funding  
 17 improves and in conjunction with additional employer and state contributions, is, pursuant to the language of U.S.  
 18 Trust Company of New York v. New Jersey, 431 U.S. 1 (1977), concerning contract impairment, reasonable and  
 19 necessary, is for a valid public purpose, and is the least impairing alternative available to the Legislature as it  
 20 seeks to fulfill its constitutional obligation to ensure that the retirement system is funded in an actuarially sound  
 21 manner.

22

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

24

25 **Section 1.** Section 15-35-108, MCA, is amended to read:

26 ~~"15-35-108. (Temporary) Disposal of severance taxes. Severance taxes collected under this chapter~~  
 27 ~~must, in accordance with the provisions of 17-2-124, be allocated as follows:~~

28 ~~———(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX,~~  
 29 ~~section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under~~  
 30 ~~17-6-203(6) and invested by the board of investments as provided by law.~~

1 ~~————(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program~~  
2 ~~account established in 17-7-205.~~

3 ~~————(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated~~  
4 ~~by the legislature for provision of basic library services for the residents of all counties through library federations~~  
5 ~~and for payment of the costs of participating in regional and national networking, conservation districts, and the~~  
6 ~~Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account.~~  
7 ~~Money may not be transferred from this account to another account other than the general fund. Beginning July~~  
8 ~~1, 2012, any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.~~

9 ~~————(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks~~  
10 ~~acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses,~~  
11 ~~must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas~~  
12 ~~described in 23-1-102.~~

13 ~~————(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable~~  
14 ~~resource loan debt service fund.~~

15 ~~————(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art~~  
16 ~~in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding~~  
17 ~~unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other~~  
18 ~~cultural and aesthetic projects.~~

19 ~~————(7) The amount of 5.8% through September 30, 2013, and beginning October 1, 2013, the amount of~~  
20 ~~2.9% must be credited to the coal natural resource account established in 90-6-1001(2):~~

21 ~~————(8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must~~  
22 ~~be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.~~

23 ~~————(9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the~~  
24 ~~provisions of this chapter must be credited to the general fund of the state:~~

25 ~~————(b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited~~  
26 ~~in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:~~

27 ~~————(i) \$65,000 to the cooperative development center;~~

28 ~~————(ii) \$625,000 for the growth through agriculture program provided for in Title 90, chapter 9;~~

29 ~~————(iii) \$1.275 million to the research and commercialization state special revenue account created in~~  
30 ~~90-3-1002, of which \$375,000 per year is appropriated for fiscal years 2012 and 2013 to the department of~~

1 commerce for the small business state matching grant program authorized in 90-1-117 to provide matching grants  
 2 for small business innovation research and small business technology transfer, \$125,000 per year is appropriated  
 3 for fiscal years 2012 and 2013 to the high-performance supercomputing program in the department of commerce;  
 4 and \$300,000 per year is appropriated for fiscal years 2012 and 2013 to the board of regents for the development  
 5 of energy and natural resources doctoral programs at Montana tech of the university of Montana;

6 ~~\_\_\_\_\_ (iv) to the department of commerce:~~

7 ~~\_\_\_\_\_ (A) \$125,000 for a small business development center;~~

8 ~~\_\_\_\_\_ (B) \$50,000 for a small business innovative research program;~~

9 ~~\_\_\_\_\_ (C) \$425,000 for certified regional development corporations;~~

10 ~~\_\_\_\_\_ (D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman;~~

11 and

12 ~~\_\_\_\_\_ (E) \$300,000 for export trade enhancement. (Terminates June 30, 2013--sec. 5, Ch. 459, L. 2009.)~~

13 **15-35-108. (Effective July 1, 2013 Temporary) Disposal of severance taxes.** Severance taxes  
 14 collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

15 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX,  
 16 section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under  
 17 17-6-203(6) and invested by the board of investments as provided by law.

18 (2) The amount of 12% of coal severance tax collections is allocated to the long-range building program  
 19 account established in 17-7-205.

20 (3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated  
 21 by the legislature for provision of basic library services for the residents of all counties through library federations  
 22 and for payment of the costs of participating in regional and national networking, conservation districts, and the  
 23 Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account.  
 24 Money may not be transferred from this account to another account other than the general fund. ~~Beginning July~~  
 25 ~~1, 2012, any~~ Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

26 (4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks  
 27 acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses,  
 28 must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas  
 29 described in 23-1-102.

30 (5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable

1 resource loan debt service fund.

2 (6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art  
3 in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding  
4 unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other  
5 cultural and aesthetic projects.

6 (7) The amount of 5.8% through September 30, 2013, and beginning October 1, 2013, the amount of  
7 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

8 (8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must  
9 be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

10 (9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the  
11 provisions of this chapter must be credited to the general fund of the state and is statutorily appropriated, as  
12 provided in 17-7-502, on July 1 each year to the trust fund for the public employees' retirement system defined  
13 benefit plan established pursuant to 19-3-103.

14 (b) The interest income from ~~\$140 million~~ of the coal severance tax permanent fund that is deposited  
15 in the general fund is statutorily appropriated, as provided in 17-7-502, on ~~an annual basis~~ July 1 each year as  
16 follows:

17 (i) \$65,000 to the cooperative development center;

18 (ii) ~~\$1.25 million~~ \$625,000 for the growth through agriculture program provided for in Title 90, chapter 9;

19 (iii) ~~\$3.65~~ \$1.275 million to the research and commercialization state special revenue account created  
20 in 90-3-1002;

21 (iv) to the department of commerce:

22 (A) \$125,000 for a small business development center;

23 (B) \$50,000 for a small business innovative research program;

24 (C) \$425,000 for certified regional development corporations;

25 (D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman;

26 and

27 (E) \$300,000 for export trade enhancement; and

28 (v) up to \$21 million to the public employees' retirement system defined benefit plan trust fund.

29 (Terminates June 30, 2019--secs. 2, 3, Ch. 459, L. 2009.)

30 **15-35-108. (Effective July 1, 2019) Disposal of severance taxes.** Severance taxes collected under

1 this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

2 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX,  
3 section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under  
4 17-6-203(6) and invested by the board of investments as provided by law.

5 (2) The amount of 12% of coal severance tax collections is allocated to the long-range building program  
6 account established in 17-7-205.

7 (3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated  
8 by the legislature for provision of basic library services for the residents of all counties through library federations  
9 and for payment of the costs of participating in regional and national networking, conservation districts, and the  
10 Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account.  
11 Money may not be transferred from this account to another account other than the general fund. ~~Beginning July~~  
12 ~~1, 2012, any~~ Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

13 (4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks  
14 acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses,  
15 must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas  
16 described in 23-1-102.

17 (5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable  
18 resource loan debt service fund.

19 (6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art  
20 in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding  
21 unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other  
22 cultural and aesthetic projects.

23 (7) The amount of 2.9% must be credited to the coal natural resource account established in  
24 90-6-1001(2).

25 (8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must  
26 be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

27 (9) (a) All Subject to subsection (9)(b), all other revenue from severance taxes collected under the  
28 provisions of this chapter must be credited to the general fund of the state and is statutorily appropriated, as  
29 provided in 17-7-502, on July 1 each year to the trust fund for the public employees' retirement system defined  
30 benefit plan pursuant to 19-3-103.

1           (b) Up to \$24 million of the interest income from the coal severance tax permanent fund that is deposited  
2 to the general fund is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the public  
3 employees' retirement system defined benefit plan trust fund."

4

5           **Section 2.** Section 17-5-703, MCA, is amended to read:

6           **"17-5-703. (Temporary) Coal severance tax trust funds.** (1) The trust established under Article IX,  
7 section 5, of the Montana constitution is composed of the following funds:

8           (a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal  
9 severance tax must be deposited;

10           (b) a treasure state endowment fund;

11           (c) a treasure state endowment regional water system fund;

12           (d) a coal severance tax permanent fund;

13           (e) a coal severance tax income fund; and

14           (f) a big sky economic development fund.

15           (2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all  
16 principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12  
17 months and retain that amount in the coal severance tax bond fund.

18           (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection  
19 (2)(a) must be transferred from that fund as provided in subsections (3) and (4).

20           (3) (a) Until June 30, ~~2020~~ 2016, the state treasurer shall quarterly transfer to the treasure state  
21 endowment fund 50% of the amount in the coal severance tax bond fund in excess of the amount that is specified  
22 in subsection (2) to be retained in the fund.

23           (b) Until June 30, ~~2020~~ 2016, the state treasurer shall quarterly transfer to the treasure state endowment  
24 regional water system fund 25% of the amount in the coal severance tax bond fund in excess of the amount that  
25 is specified in subsection (2) to be retained in the fund.

26           (c) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure  
27 state endowment special revenue account the amount of earnings, excluding unrealized gains and losses,  
28 required to meet the obligations of the state that are payable from the account in accordance with 90-6-710.  
29 Earnings not transferred to the treasure state endowment special revenue account must be retained in the  
30 treasure state endowment fund.

1 (d) The state treasurer shall monthly transfer from the treasure state endowment regional water system  
2 fund to the treasure state endowment regional water system special revenue account the amount of earnings,  
3 excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the  
4 account for regional water systems authorized under 90-6-715. Earnings not transferred to the treasure state  
5 endowment regional water system special revenue account must be retained in the treasure state endowment  
6 regional water system fund.

7 (4) (a) From July 1, 2005, through June 30, 2025, the state treasurer shall quarterly transfer to the big  
8 sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the amount  
9 that is specified in subsection (2) to be retained in the fund.

10 (b) The state treasurer shall monthly transfer from the big sky economic development fund to the  
11 economic development special revenue account, provided for in 90-1-205, the amount of earnings, excluding  
12 unrealized gains and losses, required to meet the obligations of the state that are payable from the account in  
13 accordance with 90-1-204. Earnings not transferred to the economic development special revenue account must  
14 be retained in the big sky economic development fund.

15 (5) Any amount in the coal severance tax bond fund in excess of the amount that is specified in  
16 subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be  
17 deposited in the coal severance tax permanent fund. (Terminates June 30, ~~2020~~ 2016--secs. 15, 16, Ch. 389,  
18 L. 2011.)

19 **17-5-703. (Effective July 1, ~~2020~~ 2016) Coal severance tax trust funds.** (1) The trust established  
20 under Article IX, section 5, of the Montana constitution is composed of the following funds:

21 (a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal  
22 severance tax must be deposited;

23 (b) a treasure state endowment fund;

24 (c) a coal severance tax permanent fund;

25 (d) a coal severance tax income fund; and

26 (e) a big sky economic development fund.

27 (2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all  
28 principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12  
29 months and retain that amount in the coal severance tax bond fund.

30 (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection



1 (2)(a) must be transferred from that fund as provided in subsections (3) and (4).

2 (3) (a) Until June 30, ~~2020~~ 2016, the state treasurer shall quarterly transfer to the treasure state  
3 endowment fund 50% of the amount in the coal severance tax bond fund in excess of the amount that is specified  
4 in subsection (2) to be retained in the fund.

5 (b) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure  
6 state endowment special revenue account the amount of earnings, excluding unrealized gains and losses,  
7 required to meet the obligations of the state that are payable from the account in accordance with 90-6-710.  
8 Earnings not transferred to the treasure state endowment special revenue account must be retained in the  
9 treasure state endowment fund.

10 (4) (a) From July 1, 2005, through June 30, 2025, the state treasurer shall quarterly transfer to the big  
11 sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the amount  
12 that is specified in subsection (2) to be retained in the fund.

13 (b) The state treasurer shall monthly transfer from the big sky economic development fund to the  
14 economic development special revenue account, provided for in 90-1-205, the amount of earnings, excluding  
15 unrealized gains and losses, required to meet the obligations of the state that are payable from the account in  
16 accordance with 90-1-204. Earnings not transferred to the economic development special revenue account must  
17 be retained in the big sky economic development fund.

18 (5) Any amount in the coal severance tax bond fund in excess of the amount that is specified in  
19 subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be  
20 deposited in the coal severance tax permanent fund."

21

22 **Section 3.** Section 19-3-315, MCA, is amended to read:

23 **"19-3-315. Member's contribution to be deducted.** (1) (a) ~~Each~~ Except as provided in subsection (2),  
24 each member's contribution is:

25 ~~— (i) for a member hired prior to July 1, 2011, 6.9% of the member's compensation; and~~

26 ~~— (ii) for a member hired on or after July 1, 2011, 7.9% of the member's compensation.~~

27 (b) ~~For members hired on or after July 1, 2011, the~~ The board shall ~~periodically~~ annually review the  
28 required contributions and recommend future adjustments to the legislature as needed to maintain the  
29 amortization schedule set by the board for the payment of the system's unfunded liability.

30 (2) Each member's contribution must be reduced to 6.9% on January 1 following the system's annual

1 actuarial valuation if the valuation determines that reducing the employee contribution pursuant to this subsection  
 2 and reducing the employer contribution pursuant to 19-3-316(4) would not cause the system's amortization period  
 3 to exceed 25 years.

4 ~~(2)~~(3) Payment of salaries or wages less the contribution is full and complete discharge and acquittance  
 5 of all claims and demands for the service rendered by members during the period covered by the payment,  
 6 except their claims to the benefits to which they may be entitled under the provisions of this chapter.

7 ~~(3)~~(4) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code, 26 U.S.C.  
 8 414(h)(2), shall pick up and pay the contributions that would be payable by the member under subsection (1) or  
 9 (2) for service rendered after June 30, 1985.

10 ~~(4)~~(5) (a) The member's contributions picked up by the employer must be designated for all purposes  
 11 of the retirement system as the member's contributions, except for the determination of a tax upon a distribution  
 12 from the retirement system.

13 (b) In the case of a member of the defined benefit plan, these contributions must become part of the  
 14 member's accumulated contributions but must be accounted for separately from those previously accumulated.

15 (c) In the case of a member of the defined contribution plan, these contributions must be allocated as  
 16 provided in 19-3-2117.

17 ~~(5)~~(6) The member's contributions picked up by the employer must be payable from the same source  
 18 as is used to pay compensation to the member and must be included in the member's wages, as defined in  
 19 19-1-102, and compensation. The employer shall deduct from the member's compensation an amount equal to  
 20 the amount of the member's contributions picked up by the employer and remit the total of the contributions to  
 21 the board."

22

23 **Section 4.** Section 19-3-316, MCA, is amended to read:

24 **"19-3-316. Employer contribution rates.** (1) Each employer shall contribute to the system. Except as  
 25 provided in subsection (2), the employer shall pay as employer contributions 6.9% of the compensation paid to  
 26 all of the employer's employees plus any additional contribution under subsection (3), except for those employees  
 27 properly excluded from membership. Of employer contributions made under this subsection for both defined  
 28 benefit plan and defined contribution plan members, a portion must be allocated for educational programs as  
 29 provided in 19-3-112. Employer contributions for members under the defined contribution plan must be allocated  
 30 as provided in 19-3-2117.

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

3 (3) Subject to subsection (4), each employer shall contribute to the system an additional employer  
4 contribution equal to ~~0.27%~~ 1.27% of the compensation paid to all of the employer's employees, except for those  
5 employees properly excluded from membership.

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

9 (b) The employer contribution required under subsection (3) terminates on ~~July 1~~ January 1 following  
10 the board's receipt of the system's actuarial valuation if:

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

14 ~~——(ii) terminating the additional employer contribution pursuant to this subsection (4)(b) and reducing the~~  
15 ~~employee contribution pursuant to 19-3-315(2) would not cause the system's amortization period as of the most~~  
16 ~~recent actuarial valuation to exceed 25 years."~~

17

18 **SECTION 5. SECTION 19-3-1605, MCA, IS AMENDED TO READ:**

19 **"19-3-1605. Guaranteed annual benefit adjustment.** (1) Subject to subsection (2), on January 1 of  
20 each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible  
21 under subsection (3) must be increased by the applicable percentage provided in subsection (4).

22 (2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more  
23 adjustments not provided for in this section and the adjustments amount to less than an annualized increase of  
24 the applicable percentage provided in subsection (4), then the recipient's benefit must be adjusted by an amount  
25 that will provide a total annualized increase of the applicable percentage in the benefit paid since the preceding  
26 January.

27 (b) If a recipient's benefit payable during the preceding January has been increased by one or more  
28 adjustments not provided for in this section and the increases amount to more than an annualized increase of  
29 the applicable percentage provided in subsection (4), then the benefit increase provided under this section must  
30 be 0%.

1 (c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the  
 2 original payee that occurred since the preceding January, the new recipient's monthly benefit must be increased  
 3 to the applicable percentage provided in subsection (5) more than the amount that the contingent annuitant would  
 4 have received had the contingent annuitant received a benefit during the preceding January.

5 (3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the  
 6 minimum annual benefit adjustment provided for in this section if the benefit's commencement date is at least  
 7 12 months prior to January 1 of the year in which the adjustment is to be made.

8 ~~———— (4) (a) The applicable percentage is 3% for benefit recipients hired or assuming office:~~

9 ~~———— (i) before July 1, 2007; or~~

10 ~~———— (ii) on or after July 1, 2007, if the benefit recipient is an existing member of a benefit plan for which the~~  
 11 ~~applicable percentage is 3%.~~

12 ~~———— (b) Except as provided in subsection (4)(a)(ii), the applicable percentage is 1.5% for benefit recipients~~  
 13 ~~hired or assuming office on or after July 1, 2007.~~

14 ~~———— (5) (a) The applicable percentage rate for a contingent annuitant described in subsection (2)(c) is 3%~~  
 15 ~~if the original payee:~~

16 ~~———— (i) was hired or assumed office before July 1, 2007; or~~

17 ~~———— (ii) was an existing member of a benefit plan for which the applicable percentage is 3%.~~

18 ~~———— (b) Except as provided in subsection (5)(a)(ii), the applicable percentage rate for a contingent annuitant~~  
 19 ~~described in subsection (2)(c) is 1.5% if the original payee was hired or assumed office on or after July 1, 2007.~~

20 (4) (a) If the most recent actuarial valuation of the retirement system shows that retirement system  
 21 liabilities are less than 90% funded, the applicable percentage must be as follows:

22 (i) 1% for a member or a benefit recipient or contingent annuitant of a member hired or assuming office  
 23 before July 1, 2007; or

24 (ii) 0.5% for a member or a benefit recipient or contingent annuitant of a member hired or assuming office  
 25 on or after July 1, 2007, but before July 1, 2013.

26 (b) If the most recent actuarial valuation of the retirement system shows that retirement system liabilities  
 27 are at least 90% funded and the provision of the applicable percentage will not cause the system's liabilities to  
 28 be less than 85% funded, the applicable percentage must be as follows:

29 (i) for a member or a benefit recipient or contingent annuitant of a member hired or assuming office  
 30 before July 1, 2007, an amount set by the board that is greater than 1% but no more than 3%; or

1 (ii) for a member or a benefit recipient or contingent annuitant of a member hired or assuming office on  
 2 or after July 1, 2007, but before July 1, 2013, an amount set by the board that is greater than 0.5% but no more  
 3 than 1.5%.

4 (5) The applicable percentage for a member or a benefit recipient or contingent annuitant of a member  
 5 hired or assuming office on or after July 1, 2013, is as follows:

6 (a) 1.5% if the system's unfunded liabilities amortize in 25 years or less as of the system's latest actuarial  
 7 valuation and the increase is not projected to cause the amortization period to be greater than 25 years; or

8 (b) 1.5% minus 0.1% for each year the amortization period of the system's unfunded liabilities is greater  
 9 than 25 years as of the system's latest annual actuarial valuation. If the amortization period is 40 years or greater,  
 10 the retirement allowance may not be increased.

11 (6) The board shall adopt rules to administer the provisions of this section."  
 12

13 **Section 6.** Section 19-3-2117, MCA, is amended to read:

14 **"19-3-2117. Allocation of contributions and forfeitures.** (1) The member contributions made under  
 15 19-3-315 and additional contributions paid by the member for the purchase of service must be allocated to the  
 16 plan member's retirement account.

17 (2) Subject to adjustment by the board as provided in 19-3-2121, of the employer contributions under  
 18 19-3-316 received:

19 (a) an amount equal to:

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

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

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

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

25 (b) on July 1, 2009, continuing until the additional employer contributions terminate pursuant to ~~19-3-316~~  
 26 19-3-316(4)(b), 0.27% of compensation must be allocated in the following order:

27 (i) to the defined benefit plan to eliminate the plan choice rate unfunded actuarial liability; and

28 (ii) to the long-term disability plan trust fund to provide disability benefits to eligible members; and

29 (c) on July 1, 2013, continuing until the additional employer contributions terminate pursuant to  
 30 19-3-316(4)(b), 1% of compensation must be allocated to the defined benefit plan unfunded liabilities.

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

4

5 **Section 7.** Section 6, Chapter 495, Laws of 1999, is amended to read:

6 "**Section 6. Termination.** [This act] terminates June 30, ~~2013~~ 2016."

7

8 **Section 8.** Section 15, Chapter 389, Laws of 2011, is amended to read:

9 "**Section 15.** Section 6, Chapter 495, Laws of 1999, is amended to read:

10 "**Section 6. Termination.** [This act] terminates June 30, ~~2013~~ 2020 2016."

11

12 **Section 9.** Section 16, Chapter 389, Laws of 2011, is amended to read:

13 "**Section 16.** Section 1, Chapter 70, Laws of 2001, is amended to read:

14 "**Section 1.** Section 6, Chapter 495, Laws of 1999, is amended to read:

15 "**Section 6. Termination.** [~~This act~~] [This act] ~~terminates~~ terminates June 30, ~~2013~~ 2016 2020 2016.""

16

17 **NEW SECTION. Section 10. Appropriations.** (1) For the fiscal year beginning July 1, 2013, there is  
 18 appropriated for the purpose of making the additional employer contributions in [section 4]:

19 (a) to the office of budget and program planning the following amounts from the indicated fund:

20 (i) \$1,870,019 from the general fund;

21 (ii) \$1,688,905 from the state special revenue fund;

22 (iii) \$1,149,658 from the federal special revenue fund; and

23 (iv) \$669,831 from other funds; and

24 (b) to the Montana university system from the general fund, \$548,527.

25 (2) For the fiscal year beginning July 1, 2014, there is appropriated for the purpose of making the  
 26 additional employer contributions in [section 4]:

27 (a) to the office of budget and program planning the following amounts from the indicated fund:

28 (i) \$1,870,019 from the general fund;

29 (ii) \$1,688,905 from the state special revenue fund;

30 (iii) \$1,149,658 from the federal special revenue fund; and

- 1 (iv) \$669,831 from other funds; and
- 2 (b) to the Montana university system from the general fund, \$548,527.

3

4 **NEW SECTION. Section 11. Severability.** If a part of [this act] is invalid, all valid parts that are

5 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,

6 the part remains in effect in all valid applications that are severable from the invalid applications.

7

8 **NEW SECTION. Section 12. Effective date.** [This act] is effective July 1, 2013.

9 - END -