HOUSE BILL NO. 569

INTRODUCED BY T. MOORE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PENSION LAWS; PROVIDING SUPPLEMENTAL FUNDING FOR THE HIGHWAY PATROL OFFICERS' RETIREMENT SYSTEM, THE SHERIFFS' RETIREMENT SYSTEM, AND THE GAME WARDENS' AND PEACE OFFICERS' RETIREMENT SYSTEM TO AMORTIZE THE SYSTEMS IN 25 YEARS; PROVIDING APPROPRIATIONS; REVISING CONTRIBUTIONS IN THE JUDGES' RETIREMENT SYSTEM, THE HIGHWAY PATROL OFFICERS' RETIREMENT SYSTEM, THE SHERIFFS' RETIREMENT SYSTEM, AND THE GAME WARDENS' AND PEACE OFFICERS' RETIREMENT SYSTEM TO PROVIDE FOR AN ACTUARIALLY DETERMINED CONTRIBUTION; REVISING RETIREMENT CRITERIA FOR NEW MEMBERS IN THE SHERIFFS' RETIREMENT SYSTEM AND THE HIGHWAY PATROL OFFICERS' RETIREMENT SYSTEM; AMENDING SECTIONS 15-10-420, 17-7-502, 19-2-405, 19-2-409, 19-5-404, 19-6-404, 19-6-501, 19-7-403, 19-7-404, 19-7-501, AND 19-8-504, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Highway patrol officers' retirement system appropriation.** There is appropriated $27.6 million from the general fund to the Montana public employees' retirement board for the fiscal year beginning July 1, 2023, to amortize the highway patrol officers' retirement system in 25 years.

NEW SECTION. **Section 2. Sheriffs' retirement system appropriation.** There is appropriated $26.8 million from the general fund to the Montana public employees' retirement board for the fiscal year beginning July 1, 2023, to amortize the sheriffs' retirement system in 25 years.

NEW SECTION. **Section 3. Game wardens' and peace officers' retirement system.** There is appropriated $41.2 million from the general fund to the Montana public employees' retirement board for the fiscal year beginning July 1, 2023, to amortize the game wardens' and peace officers' retirement system in 25 years.

Section 4. Section 15-10-420, MCA, is amended to read:

"**15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's newly taxable value, plus one-half of the average rate of inflation for the prior 3 years.

(b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly taxable property.

(3) (a) For purposes of this section, newly taxable property includes:

(i) annexation of real property and improvements into a taxing unit;

(ii) construction, expansion, or remodeling of improvements;

(iii) transfer of property into a taxing unit;

(iv) subdivision of real property; and

(v) transfer of property from tax-exempt to taxable status.

(b) Newly taxable property does not include an increase in value:

"**19-2-409. Plans to be funded on actuarially sound basis -- definition.** (1) As required by Article VIII, section 15, of the Montana constitution, each system must be funded on an actuarially sound basis. For the purposes of this section, "actuarially sound basis" means that contributions to each retirement plan must be sufficient to pay the full actuarial cost of the plan.

(2) (a) For a defined benefit plan, the full actuarial cost includes both the normal cost of providing benefits as they accrue in the future and the cost of amortizing unfunded liabilities over a scheduled period of no more than 30 years, except that with respect to the judges' retirement system, the highway patrol officers' retirement system, the sheriffs' retirement system, and the game wardens' and peace officers' retirement system, the unfunded liabilities must be paid over the periods provided for in 19-5-404, 19-6-404, 19-7-404, and 19-8-504, respectively.

(b) For the defined contribution plan, the full actuarial cost is the contribution defined by law that is payable to an account on behalf of the member."

Section 8. Section 19-5-404, MCA, is amended to read:

"**19-5-404. State employer contribution -- definitions.** (1) (a) Beginning July 1, 2023, ~~and except as provided in subsections (2) and (3),~~ the state shall pay as employer contributions ~~14.0% of the compensation paid to all of the employer's employees, except those properly excluded from membership~~ an actuarially determined employer contribution that is determined annually by the public employees' retirement board's actuary in accordance with the provisions of this section and part of the plan's annual actuarial valuation. This actuarially determined employer contribution is effective July 1 following the annual actuarial valuation completed in the prior calendar year.

(b) The actuarially determined employer contribution must be the sum of the following contribution rates minus the employee contribution provided for in 19-5-402:

(i) the contribution rate determined under subsection (1)(c) to pay for the contemporary unfunded liability; and

(ii) the contribution rate determined under subsection (1)(d) to pay for the normal cost of benefits as they accrue.

(c) The contribution rate under subsection (1)(b)(i) for the contemporary unfunded liability must be the amount required on a level percentage basis to pay the annual contemporary unfunded liabilities attributable to the employer's employees over a layered amortization schedule so that each fiscal year's contemporary unfunded liability is amortized over a closed 10-year period, starting with the contemporary unfunded liability for the fiscal year ending June 30, 2024.

(d) The contribution rate under subsection (1)(b)(ii) for the normal cost of benefits as they accrue must be the amount required on a level percentage basis to pay the normal cost of benefits as determined in the annual actuarial valuation as the benefits accrue for each of the employer's employees.

~~(2) Beginning From July 1, 2023, and except as provided in subsection (3), through June 30, 2024, the state shall contribute monthly from the natural resources operations state special revenue account, established in 15-38-301, to the judges' pension trust fund an amount equal to 14.0% of the compensation paid to the chief water court judge. The judiciary shall include in its budget and shall request for legislative appropriation an amount necessary to defray the state's portion of the costs of this section.~~

~~(3)~~(2) (a) Beginning July 1, 2024, the state shall contribute monthly from the natural resources operations special state revenue account, established in 15-38-301, to the judges' pension trust fund an actuarially determined employer contribution that is determined annually by the public employees' retirement board's actuary in accordance with the provisions of this section and part of the plan's annual actuarial valuation for the chief water court judge. This actuarially determined employer contribution is effective July 1 following the annual actuarial valuation completed in the prior calendar year.

(b) The actuarially determined employer contribution must be the sum of the following contribution rates minus the employee contribution provided in 19-5-402:

(i) the contribution rate determined under subsection ~~(3)(c)~~(2)(c) to pay for the contemporary unfunded liability; and

(ii) the contribution rate determined under subsection ~~(3)(d)~~(2)(d) to pay for the normal cost of benefits as they accrue.

(c) The contribution rate under subsection ~~(3)(b)(i)~~(2)(b)(i) for the contemporary unfunded liability must be the amount required on a level percentage basis to pay the annual contemporary unfunded liabilities attributable to the employer's employees over a layered amortization schedule so that each fiscal year's contemporary unfunded liability is amortized over a closed 10-year period, starting with the contemporary unfunded liability for the fiscal year ending June 30, 2024.

(d) The contribution rate under subsection ~~(3)(b)(ii)~~(2)(b)(ii) for the normal cost of benefits as they accrue must be the amount required on a level percentage basis to pay the normal cost of benefits as determined in the annual actuarial valuation as the benefits accrue for each of the employer's employees.

~~(3) If, based on the most recently available actuarial study for the judges' retirement system, the funded ratio of the plan drops below 120% funded, the employer contribution rates in subsections (1) and (2) must be increased to 25.81%.~~

~~(4)~~(3) For the first full pay period of July 2021 through the last full pay period ending June 2023, and except as provided in subsection ~~(5)~~(4), the state shall pay as employer contributions 0% of the compensation paid to all of the employer's employees, except those properly excluded from membership.

~~(5)~~(4) For the first full pay period of July 2021 through the last full pay period ending June 2023, the state shall contribute monthly from the natural resources operations state special revenue account, established in 15-38-301, to the judges' pension trust fund an amount equal to 0% of the compensation paid to the chief water court judge. The judiciary shall include in its budget and shall request for legislative appropriation an amount necessary to defray the state's portion of the costs of this section.

~~(6)~~(5) For the purposes of this section, the following definitions apply:

(a) "Contemporary unfunded liability" means the plan's annual fiscal year actuarial gains and losses smoothed over 5 years starting with the fiscal year ending June 30, 2019.

(b) "Legacy unfunded liability" means the unfunded liability of the plan as of June 30, 2023.

(Subsections ~~(4) and (5)~~(3) and (4) terminate June 30, 2023--sec. 3, Ch. 272, L. 2021.)"

Section 9. Section 19-6-404, MCA, is amended to read:

"**19-6-404. State employer contribution -- ~~statutory appropriation~~ definitions.** (1) (a) ~~The~~ From July 1, 2023, through June 30, 2024, the state shall pay as employer contributions ~~38.33%~~ ~~43.48%~~ 38.33% of compensation paid to all of the employer's employees, except those properly excluded from membership.~~, from the following sources:~~

~~(1) an amount equal to 28.15% of the total compensation of the members, which is payable, as appropriated by the legislature, from the same source that is used to pay compensation to the members; and~~

~~(2) an amount equal to 10.18% of the total compensation of the members, which is statutorily appropriated, as provided in 17-7-502, from the general fund to the pension trust fund.~~

(b) Beginning July 1, 2023, and each fiscal year thereafter, the state treasurer shall transfer $500,000 from the state special revenue fund provided for in 17-2-102 to the highway patrol officers' retirement pension trust fund by August 15. This transfer must terminate when the public employees' retirement board's actuary determines that the funded ratio for the highway patrol officers' pension system is 100% funded.

(2) (a) Beginning July 1, 2024, the state shall pay as employer contributions an actuarially determined employer contribution that is determined annually by the public employees' retirement board's actuary in accordance with the provisions of this section and part of the plan's annual actuarial valuation. This actuarially determined employer contribution is effective July 1 following the annual actuarial valuation completed in the prior calendar year.

(b) The actuarially determined employer contribution must be the sum of the following contribution rates minus the employee contribution provided for in 19-6-402:

(i) the contribution rate determined under subsection (2)(c) to pay off the legacy unfunded liability;

(ii) the contribution rate determined under subsection (2)(d) to pay for the contemporary unfunded liability; and

(iii) the contribution rate determined under subsection (2)(e) to pay for the normal cost of benefits as they accrue.

(c) (i) Except as provided in subsection (2)(c)(ii), the contribution rate under subsection (2)(b)(i) for the legacy unfunded liability must be the amount required on a level percent basis to amortize the legacy unfunded liability attributable to the employer's employees over a closed 25-year amortization period beginning July 1, 2023.

(ii) If the June 30, 2023, actuarial valuation determines the system's amortization period is less than 25 years, then the closed amortization period used for the purposes of subsection (2)(c)(i) must be that amortization period.

(d) The contribution rate under subsection (2)(b)(ii) for the contemporary unfunded liability must be the amount required on a level percent basis to pay the annual contemporary unfunded liabilities attributable to the employer's employees over a layered amortization schedule so that each fiscal year's contemporary unfunded liability is amortized over a closed 10-year period, starting with the contemporary unfunded liability for the fiscal year ending June 30, 2024.

(e) The contribution rate under subsection (2)(b)(iii) for the normal cost of benefits as they accrue must be the amount required on a level percent basis to pay the normal cost of benefits as determined in the annual actuarial valuation as the benefits accrue for each of the employer's employees.

(3) For the purposes of this section, the following definitions apply:

(a) "Contemporary unfunded liability" means the plan's annual fiscal year actuarial gains and losses smoothed over 5 years starting with the fiscal year ending June 30, 2019.

(b) "Legacy unfunded liability" means the unfunded liability of the plan as of June 30, 2023."

Section 10. Section 19-6-501, MCA, is amended to read:

"**19-6-501. Eligibility for service retirement benefit.** (1) (a) Subject to a member's right to a refund of the member's accumulated contributions under Title 19, chapter 2, part 6, a member hired on or before June 30, 2023, is eligible to receive a nonforfeitable service retirement benefit under 19-6-502 after completing 20 years or more of membership service and terminating service.

(b) Subject to a member's right to a refund of the member's accumulated contributions under Title 19, chapter 2, part 6, a member hired on or after July 1, 2023, is eligible to receive a nonforfeitable service retirement benefit under 19-6-502 after completing 20 years or more of membership service, reaching the age of 50, and terminating service.

(2) For purposes of compliance with section 411 of the Internal Revenue Code, 26 U.S.C. 411, a vested member ~~who has attained the later of age 50 or the completion of 20 years of membership service has~~ is treated as having attained normal retirement age and has a nonforfeitable right to the member's service retirement."

Section 11. Section 19-7-403, MCA, is amended to read:

"**19-7-403. Member's contributions deducted.** (1) (a) Subject to subsection (1)(b), each member's contribution is 10.495% of the member's compensation.

(b) The member's contribution required under this subsection (1) must be reduced to 9.245% on

July 1 following the board's receipt of the system's actuarial valuation if~~:~~ the report shows that the funded ratio for the sheriffs' retirement system is at least 100%.

~~(i) the actuarial valuation determines that the period required to amortize the system's unfunded liabilities, including adjustments that become effective after the valuation, is less than 25 years; and~~

~~(ii) reducing the member contributions and terminating the additional employer contributions pursuant to 19-7-404(4)(b) would not cause the system's amortization period as of the most recent actuarial valuation to exceed 25 years.~~

(2) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code of 1954, as amended and applicable on July 1, 1985, shall pick up and pay the contributions that would be payable by the member under subsection (1) for service rendered after June 30, 1985.

(3) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution from the retirement system. These contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(4) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the member's wages, as defined in 19-1-102, and salary as used to define the member's highest average compensation in 19-7-101. The employer shall deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer and remit the total of the contributions to the board."

Section 12. Section 19-7-404, MCA, is amended to read:

"**19-7-404. Employer contributions -- definitions.** (1) ~~Each~~ From July 1, 2023, through June 30, 2024, each employer shall pay ~~9.535%~~ ~~13.385%~~ 13.115% of the compensation paid to all of the employer's employees ~~plus any additional contribution under subsection (3), except for those employees properly excluded from membership~~.

(2) (a) Beginning July 1, 2024, each employer shall pay as employer contributions an actuarially determined employer contribution that is determined annually by the public employees' retirement board's actuary in accordance with the provisions of this section and part of the plan's annual actuarial valuation. This

actuarially determined employer contribution is effective July 1 following the annual actuarial valuation completed in the prior calendar year.

(b) The actuarially determined employer contribution must be the sum of the following contribution rates minus the employee contribution provided for in 19-7-403:

(i) the contribution rate determined under subsection (2)(c) to pay off the legacy unfunded liability;

(ii) the contribution rate determined under subsection (2)(d) to pay for the contemporary unfunded liability; and

(iii) the contribution rate determined under subsection (2)(e) to pay for the normal cost of benefits as they accrue.

(c) (i) Except as provided in subsection (2)(c)(ii), the contribution rate under subsection (2)(b)(i) for the legacy unfunded liability must be the amount required on a level percent basis to amortize the legacy unfunded liability attributable to the employer's employees over a closed 25-year amortization period beginning July 1, 2023.

(ii) If the June 30, 2023, actuarial valuation determines the system's amortization period is less than 25 years, then the closed amortization period used for the purposes of subsection (2)(c)(i) must be that amortization period.

(d) The contribution rate under subsection (2)(b)(ii) for the contemporary unfunded liability must be the amount required on a level percent basis to pay the annual contemporary unfunded liabilities attributable to the employer's employees over a layered amortization schedule so that each fiscal year's contemporary unfunded liability is amortized over a closed 10-year period, starting with the contemporary unfunded liability for the fiscal year ending June 30, 2024.

(e) The contribution rate under subsection (2)(b)(iii) for the normal cost of benefits as they accrue must be the amount required on a level percent basis to pay the normal cost of benefits as determined in the annual actuarial valuation as the benefits accrue for each of the employer's employees.

~~(2)~~(3) (a) If the required contributions under ~~subsections (1) and (3)(a)~~ subsections (1) and (2) exceed 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.

(b) (i) A county may impose a mill levy to fund the employer contribution required under ~~subsection (3)(b)~~ <u>subsections</u> <u>(1) and (2)</u>. The mill levy is not subject to 15-10-420(1) or to approval at an election under 15-10-425.

(ii) Each year prior to implementing a levy under subsection ~~(2)(b)(i)~~ <u>(3)(b)(i)</u>, after notice of the hearing given under 7-1-2121, a public hearing must be held regarding any proposed increase.

(iii) If a levy pursuant to this subsection ~~(2)(b)~~ <u>(3)(b)</u> is decreased or ceases to be levied, the revenue may not be combined with the revenue determined in 15-10-420(1)(a).

<u>(4) For the purposes of this section, the following definitions apply:</u>

<u>(a) "Contemporary unfunded liability" means the plan's annual fiscal year actuarial gains and losses smoothed over 5 years starting with the fiscal year ending June 30, 2019.</u>

<u>(b) "Legacy unfunded liability" means the unfunded liability of the plan as of June 30, 2023.</u>

~~(3) Subject to subsection (4), each employer shall contribute to the system additional employer contributions equal to:~~

~~(a) 0.58% of the compensation paid to all of the employer's employees, except for those employees properly excluded from membership; and~~

~~(b) 3% of the compensation paid to all of the employer's employees, except for those employees properly excluded from membership.~~

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

~~(b) The employer contributions required under subsection (3) terminate on July 1 following the board's receipt of 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 that become effective after the valuation, is less than 25 years; and~~

~~(ii) terminating the additional employer contributions and reducing the member contributions pursuant to 19-7-403(1)(b) would not cause the amortization period to exceed 25 years.~~"

Section 13. Section 19-7-501, MCA, is amended to read:

"**19-7-501. Eligibility for service retirement.** (1) (a) Subject to a member's right to a refund of the member's accumulated contributions under Title 19, chapter 2, part 6, a member hired on or before June 30, 2023, who has completed at least 20 years of membership service is eligible for a nonforfeitable service retirement benefit under 19-7-503.

(b) Subject to a member's right to a refund of the member's accumulated contributions under Title 19, chapter 2, part 6, a member hired on or after July 1, 2023, who has completed at least 20 years of membership service and reached 50 years of age is eligible for a nonforfeitable service retirement benefit under 19-7-503.

(2) For purposes of compliance with section 411 of the Internal Revenue Code, 26 U.S.C. 411, a vested member ~~who has attained the later of age 50 or the completion of 20 years of membership service has attained normal retirement age and~~ described in subsection (1)(a) or (1)(b) is treated as having attained normal retirement age and has a nonforfeitable right to the member's service retirement."

Section 14. Section 19-8-504, MCA, is amended to read:

"**19-8-504. Employer's contribution -- definitions.** (1) ~~The~~ From July 1, 2023, through June 30, 2024, the employer shall pay as employer contributions ~~9%~~ ~~13.65%~~ 10.56% of the compensation paid to all of the employer's employees, except those properly excluded from membership. ~~The department of fish, wildlife, and parks shall include in its budget and shall request for legislative appropriation an amount necessary to defray the state's portion of the costs of this section.~~

(2) (a) Beginning July 1, 2024, each employer shall pay as employer contributions an actuarially determined employer contribution that is determined annually by the public employees' retirement board's actuary in accordance with the provisions of this section and part of the plan's annual actuarial valuation. This actuarially determined employer contribution is effective July 1 following the annual actuarial valuation completed in the prior calendar year.

(b) The actuarially determined employer contribution must be the sum of the following contribution rates minus the employee contribution provided in 19-8-502:

(i) the contribution rate determined under subsection (2)(c) to pay off the legacy unfunded liability;

(ii) the contribution rate determined under subsection (2)(d) to pay for the contemporary unfunded liability; and

(iii) the contribution rate determined under subsection (2)(e) to pay for the normal cost of benefits as they accrue.

(c) (i) Except as provided in subsection (2)(c)(ii), the contribution rate under subsection (2)(b)(i) for the legacy unfunded liability must be the amount required on a level percent basis to amortize the legacy unfunded liability attributable to the employer's employees over a closed 25-year amortization period beginning July 1, 2023.

(ii) If the June 30, 2023, actuarial valuation determines the system's amortization period is less than 25 years, then the closed amortization period used for the purposes of subsection (2)(c)(i) must be that amortization period.

(d) The contribution rate under subsection (2)(b)(ii) for the contemporary unfunded liability must be the amount required on a level percent basis to pay the annual contemporary unfunded liabilities attributable to the employer's employees over a layered amortization schedule so that each fiscal year's contemporary unfunded liability is amortized over a closed 10-year period, starting with the contemporary unfunded liability for the fiscal year ending June 30, 2024.

(e) The contribution rate under subsection (2)(b)(iii) for the normal cost of benefits as they accrue must be the amount required on a level percent basis to pay the normal cost of benefits as determined in the annual actuarial valuation as the benefits accrue for each of the employer's employees.

(3) For the purposes of this section, the following definitions apply:

(a) "Contemporary unfunded liability" means the plan's annual fiscal year actuarial gains and losses smoothed over 5 years starting with the fiscal year ending June 30, 2019.

(b) "Legacy unfunded liability" means the unfunded liability of the plan as of June 30, 2023."

NEW SECTION. **Section 15. Severability**. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.