

1 HOUSE BILL NO. 226
 2 INTRODUCED BY T. MOORE, J. HAMILTON, D. FERN, S. VINTON, B. MERCER, T. MCGILLVRAY, D. LENZ,
 3 T. FALK, J. TREBAS

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE PUBLIC
 6 EMPLOYEES' RETIREMENT SYSTEM; REVISING CONTRIBUTIONS IN THE PUBLIC EMPLOYEES'
 7 RETIREMENT SYSTEM TO PROVIDE FOR AN ACTUARIALLY DETERMINED CONTRIBUTION; CHANGING
 8 THE DEFAULT RETIREMENT PLAN TO THE PUBLIC EMPLOYEES' DEFINED CONTRIBUTION PLAN;
 9 REVISING THE EMPLOYER CONTRIBUTION TO THE DEFINED CONTRIBUTION PLAN OF THE PUBLIC
 10 EMPLOYEES' RETIREMENT SYSTEM; PROVIDING DEFINITIONS; AMENDING SECTIONS 19-2-303, 19-2-
 11 405, 19-2-409, 19-3-315, 19-3-316, 19-3-319, 19-3-1605, 19-3-2111, 19-3-2117, AND 19-21-214, MCA; AND
 12 PROVIDING AN EFFECTIVE DATE."

13
 14 WHEREAS, Montana's current statutory funding approach to Montana's Public Employees' Retirement
 15 System (PERS) and the current funding policies adopted by the Public Employees' Retirement Board is based
 16 on a 30-year maximum single-layer amortization period for unfunded liabilities; and

17 WHEREAS, contribution rates are currently fixed rates set in statute, which means legislation is
 18 required to increase contributions if the contribution rates are insufficient to keep the amortization period under
 19 30 years and continue to lower the amortization period each year; and

20 WHEREAS, a layered amortization funding policy and automatic adjustments in contribution rates to
 21 ensure contributions are sufficient to continue to pay down unfunded liabilities in a more expeditious and fiscally
 22 disciplined manner would significantly reduce the long-term costs of the Public Employees' Retirement System;
 23 and

24 WHEREAS, the Public Employees' Retirement System is the largest statewide public employee
 25 retirement system and accounts for the majority of the public retirement system liability, with an unfunded
 26 liability of \$2.25 billion and an amortization period of 32 years.

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

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Section 1. Section 19-2-303, MCA, is amended to read:

"19-2-303. Definitions. Unless the context requires otherwise, for each of the retirement systems subject to this chapter, the following definitions apply:

(1) "Accumulated contributions" means the sum of all the regular and any additional contributions made by a member in a defined benefit plan, together with the regular interest on the contributions.

(2) "Active member" means a member who is a paid employee of an employer, is making the required contributions, and is properly reported to the board for the most current reporting period.

(3) "Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory manner to represent the present value of the benefits to be derived from the additional service to be credited based on the most recent actuarial valuation for the system and the age, years until retirement, and current salary of the member.

(4) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality table and interest rate assumptions adopted by the board.

(5) "Actuarial liabilities" means the excess of the present value of all benefits payable under a defined benefit retirement plan over the present value of future normal costs in that retirement plan.

(6) "Actuary" means the actuary retained by the board in accordance with 19-2-405.

(7) "Additional contributions" means contributions made by a member of a defined benefit plan to purchase various types of optional service credit as allowed by the applicable retirement plan.

(8) "Annuity" means:

(a) in the case of a defined benefit plan, equal and fixed payments for life that are the actuarial equivalent of a lump-sum payment under a retirement plan and as such are not benefits paid by a retirement plan and are not subject to periodic or one-time increases; or

(b) in the case of the defined contribution plan, a payment of a fixed sum of money at regular intervals.

(9) "Banked holiday time" means the hours reported for work performed on a holiday that the employee may use for equivalent time off or that may be paid to the employee as specified by the employer's policy.

1 (10) "Benefit" means:

2 (a) the service retirement benefit, early retirement benefit, or disability retirement or survivorship
3 benefit payment provided by a defined benefit retirement plan; or

4 (b) a payment or distribution under the defined contribution retirement plan, including a disability
5 payment under 19-3-2141, for the exclusive benefit of a plan member or the member's beneficiary or an annuity
6 purchased under 19-3-2124.

7 (11) "Board" means the public employees' retirement board provided for in 2-15-1009.

8 (12) "Contingent annuitant" means:

9 (a) under option 2 or 3 provided for in 19-3-1501, one natural person designated to receive a
10 continuing monthly benefit after the death of a retired member; or

11 (b) under option 4 provided for in 19-3-1501, a natural person, charitable organization, estate, or
12 trust that may receive a continuing monthly benefit after the death of a retired member.

13 (13) "Covered employment" means employment in a covered position.

14 (14) "Covered position" means a position in which the employee must be a member of the
15 retirement system except as otherwise provided by law.

16 (15) "Defined benefit retirement plan" or "defined benefit plan" means a plan within the retirement
17 systems provided for pursuant to 19-2-302 that is not the defined contribution retirement plan.

18 (16) "Defined contribution retirement plan" or "defined contribution plan" means the plan within the
19 public employees' retirement system established in 19-3-103 that is provided for in chapter 3, part 21, of this
20 title and that is not a defined benefit plan.

21 (17) "Department" means the department of administration.

22 (18) "Designated beneficiary" means the person, charitable organization, estate, or trust for the
23 benefit of a natural person designated by a member or payment recipient to receive any survivorship benefits,
24 lump-sum payments, or benefit from a retirement account upon the death of the member or payment recipient,
25 including annuities derived from the benefits or payments.

26 (19) "Direct rollover" means a payment by the retirement plan to the eligible retirement plan
27 specified by the distributee or a payment from an eligible retirement plan to the retirement plan specified by the
28 distributee.

1 (20) "Disability" or "disabled" means a total inability of the member to perform the member's duties
2 by reason of physical or mental incapacity. The disability must be incurred while the member is an active
3 member and must be one of permanent duration or of extended and uncertain duration, as determined by the
4 board on the basis of competent medical opinion.

5 (21) "Distributee" means:

6 (a) a member;

7 (b) a member's surviving spouse;

8 (c) a member's spouse or former spouse who is the alternate payee under a family law order as
9 defined in 19-2-907; or

10 (d) effective January 1, 2007, a member's nonspouse beneficiary who is a designated beneficiary
11 as defined by section 401(a)(9)(E) of the Internal Revenue Code, 26 U.S.C. 401(a)(9)(E).

12 (22) "Early retirement benefit" means the retirement benefit payable to a member following early
13 retirement and is the actuarial equivalent of the accrued portion of the member's service retirement benefit.

14 (23) "Eligible retirement plan" means any of the following that accepts the distributee's eligible
15 rollover distribution:

16 (a) an individual retirement account described in section 408(a) of the Internal Revenue Code, 26
17 U.S.C. 408(a);

18 (b) an individual retirement annuity described in section 408(b) of the Internal Revenue Code, 26
19 U.S.C. 408(b);

20 (c) an annuity plan described in section 403(a) of the Internal Revenue Code, 26 U.S.C. 403(a);

21 (d) a qualified trust described in section 401(a) of the Internal Revenue Code, 26 U.S.C. 401(a);

22 (e) effective January 1, 2002, an annuity contract described in section 403(b) of the Internal
23 Revenue Code, 26 U.S.C. 403(b);

24 (f) effective January 1, 2002, a plan eligible under section 457(b) of the Internal Revenue Code,
25 26 U.S.C. 457(b), that is maintained by a state, a political subdivision of a state, or any agency or
26 instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts
27 transferred into that plan from a plan under this title; or

28 (g) effective January 1, 2008, a Roth IRA described in section 408A of the Internal Revenue Code,

1 26 U.S.C. 408A.

2 (24) "Eligible rollover distribution":

3 (a) means any distribution of all or any portion of the balance from a retirement plan to the credit of
4 the distributee, as provided in 19-2-1011;

5 (b) effective January 1, 2002, includes a distribution to a surviving spouse or to a spouse or former
6 spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Internal
7 Revenue Code, 26 U.S.C. 414(p).

8 (25) "Employee" means a person who is employed by an employer in any capacity and whose
9 salary is being paid by the employer or a person for whom an interlocal governmental entity is responsible for
10 paying retirement contributions pursuant to 7-11-105.

11 (26) "Employer" means a governmental agency participating in a retirement system enumerated in
12 19-2-302 on behalf of its eligible employees. The term includes an interlocal governmental entity identified as
13 responsible for paying retirement contributions pursuant to 7-11-105.

14 (27) "Essential elements of the position" means fundamental job duties. An element may be
15 considered essential because of but not limited to the following factors:

16 (a) the position exists to perform the element;

17 (b) there are a limited number of employees to perform the element; or

18 (c) the element is highly specialized.

19 (28) "Excess earnings" means the difference, if any, between reported compensation and the limits
20 provided in 19-2-1005(2) used to calculate a member's highest average compensation or final average
21 compensation.

22 (29) "Fiscal year" means a plan year, which is any year commencing with July 1 and ending the
23 following June 30.

24 (30) "Inactive member" means a member who terminates service and does not retire or take a
25 refund of the member's accumulated contributions.

26 (31) "Internal Revenue Code" has the meaning provided in 15-30-2101.

27 (32) "Member" means either:

28 (a) a person with accumulated contributions and service credited with a defined benefit retirement

1 plan or receiving a retirement benefit on account of the person's previous service credited in a retirement
2 system; or

3 (b) a person with a retirement account in the defined contribution plan.

4 (33) "Membership service" means the periods of service that are used to determine eligibility for
5 retirement or other benefits.

6 (34) (a) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost
7 method required to fund accruing benefits for members of a defined benefit retirement plan during any year in
8 the future.

9 (b) Normal cost does not include any portion of the supplemental costs of a retirement plan.

10 (35) "Normal retirement age" means the age at which a member is eligible to immediately receive a
11 retirement benefit based on the member's age or both age and length of service, as specified under the
12 member's retirement system, without disability and without an actuarial or similar reduction in the benefit.

13 (36) "Pension" means benefit payments for life derived from contributions to a retirement plan made
14 from state- or employer-controlled funds.

15 (37) "Pension trust fund" means a fund established to hold the contributions, income, and assets of
16 a retirement system or plan in public trust.

17 ~~(38) "Plan choice rate" means the amount of the employer contribution as a percentage of payroll~~
18 ~~covered by the defined contribution plan members that is allocated to the public employees' retirement system's~~
19 ~~defined benefit plan pursuant to 19-3-2117 to actuarially fund the unfunded liabilities and the normal cost rate~~
20 ~~changes in a defined benefit plan resulting from member selection of the defined contribution plan.~~

21 ~~(39)~~(38) "Regular contributions" means contributions required from members under a retirement plan.

22 ~~(40)~~(39) "Regular interest" means interest at rates set from time to time by the board.

23 ~~(41)~~(40) "Retirement" or "retired" means the status of a member who has:

24 (a) terminated from service; and

25 (b) received and accepted a retirement benefit from a retirement plan.

26 ~~(42)~~(41) "Retirement account" means an individual account within the defined contribution retirement
27 plan for the deposit of employer and member contributions and other assets for the exclusive benefit of a
28 member of the defined contribution plan or the member's beneficiary.

1 ~~(43)~~(42) "Retirement benefit" means:

2 (a) in the case of a defined benefit plan, the periodic benefit payable as a result of service
3 retirement, early retirement, or disability retirement under a defined benefit plan of a retirement system. With
4 respect to a defined benefit plan, the term does not mean an annuity.

5 (b) in the case of the defined contribution plan, a benefit as defined in subsection (10)(b).

6 ~~(44)~~(43) "Retirement plan" or "plan" means either a defined benefit plan or a defined contribution plan
7 under one of the public employee retirement systems enumerated in 19-2-302.

8 ~~(45)~~(44) "Retirement system" or "system" means one of the public employee retirement systems
9 enumerated in 19-2-302.

10 ~~(46)~~(45) "Service" means employment of an employee in a position covered by a retirement system.

11 ~~(47)~~(46) "Service credit" means the periods of time for which the required contributions have been
12 made to a retirement plan and that are used to calculate retirement benefits or survivorship benefits under a
13 defined benefit retirement plan.

14 ~~(48)~~(47) "Service retirement benefit" means the retirement benefit that the member may receive at
15 normal retirement age.

16 ~~(49)~~(48) "Statutory beneficiary" means the surviving spouse or dependent child or children of a
17 member of the highway patrol officers', municipal police officers', or firefighters' unified retirement system who
18 are statutorily designated to receive benefits upon the death of the member.

19 ~~(50)~~(49) "Supplemental cost" means an element of the total actuarial cost of a defined benefit
20 retirement plan arising from benefits payable for service performed prior to the inception of the retirement plan
21 or prior to the date of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure
22 to fund or otherwise recognize normal cost accruals or interest on supplemental costs. These costs are
23 included in the unfunded actuarial liabilities of the retirement plan.

24 ~~(51)~~(50) "Survivorship benefit" means payments for life to the statutory or designated beneficiary of a
25 deceased member who died while in service under a defined benefit retirement plan.

26 ~~(52)~~(51) "Termination of employment", "termination from employment", "terminated employment",
27 "terminated from employment", "terminate employment", or "terminates employment" means that:

28 (a) there has been a complete severance of a covered employment relationship by the positive act

1 of either the employee, the employer, or both; and

2 (b) the member is no longer receiving compensation for covered employment, other than any
3 outstanding lump-sum payment for compensatory leave, sick leave, or annual leave.

4 ~~(53)~~(52) "Termination of service", "termination from service", "terminated from service", "terminated
5 service", "terminating service", or "terminates service" means that:

6 (a) there has been a complete severance of a covered employment relationship by the positive act
7 of either the employee, the employer, or both for at least 30 days;

8 (b) no written or verbal agreement exists between employee and employer that the employee will
9 return to covered employment in the future;

10 (c) the member is no longer receiving compensation for covered employment; and

11 (d) the member has been paid all compensation for compensatory leave, sick leave, or annual
12 leave to which the member was entitled. For the purposes of this subsection ~~(53)~~ (52), compensation does not
13 mean compensation as a result of a legal action, court order, or settlement to which the board was not a party.

14 ~~(54)~~(53) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a defined benefit
15 retirement plan's actuarial liabilities at any given point in time over the value of its cash and investments on that
16 same date.

17 ~~(55)~~(54) "Vested account" means an individual account within a defined contribution plan that is for the
18 exclusive benefit of a member or the member's beneficiary. A vested account includes all contributions and the
19 income on all contributions in each of the following accounts:

20 (a) the member's contribution account;

21 (b) the vested portion of the employer's contribution account; and

22 (c) the member's account for other contributions.

23 ~~(56)~~(55) "Vested member" or "vested" means:

24 (a) with respect to a defined benefit plan, except as provided in subsection ~~(56)(b)~~ (55)(b), a
25 member or the status of a member who has at least 5 years of membership service;

26 (b) with respect to a member of the highway patrol officers' retirement system established in Title
27 19, chapter 6, who was hired on or after July 1, 2013, a member or the status of a member who has at least 10
28 years of membership service; or

1 (c) with respect to the defined contribution plan, a member or the status of a member who meets
2 the minimum membership service requirement of 19-3-2116.

3 ~~(57)~~(56) "Written application" or "written election" means a written instrument, prescribed by the board
4 or required by law, properly signed and filed with the board, that contains all required information, including
5 documentation that the board considers necessary.

6 ~~(58)~~(57) "Written instrument" includes an electronic record containing an electronic signature, as
7 defined in 30-18-102."

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9 **Section 2.** Section 19-2-405, MCA, is amended to read:

10 **"19-2-405. Employment of actuary -- annual investigation and valuation.** (1) The board shall
11 retain a competent actuary who is an enrolled member of the American academy of actuaries and who is
12 familiar with public systems of pensions. The actuary is the technical adviser of the board on matters regarding
13 the operation of the retirement systems.

14 (2) The board shall require the actuary to make and report on an annual actuarial investigation into
15 the suitability of the actuarial tables used by the retirement systems and an actuarial valuation of the assets and
16 liabilities of each defined benefit plan that is a part of the retirement systems.

17 (3) The normal cost contribution rate, which is funded by required employee contributions and a
18 portion of the required employer contributions to each defined benefit retirement plan, must be calculated as the
19 level percentage of members' salaries that will actuarially fund benefits payable under a retirement plan as
20 those benefits accrue in the future.

21 (4) ~~(a)~~The unfunded liability contribution rate, which is entirely funded by a portion of the required
22 employer contributions to the retirement plan, must be calculated as the level percentage of current and future
23 defined benefit plan members' salaries that will amortize the unfunded actuarial liabilities of the retirement plan
24 over a reasonable period of time, not to exceed 30 years, as determined by the board, except as provided in
25 19-3-316 for the public employees' retirement system's defined benefit plan.

26 ~~(b)~~ In determining the amortization period under subsection (4)(a) for the public employees' retirement
27 system's defined benefit plan, the actuary shall take into account the plan choice rate contributions to be made
28 to the defined benefit plan pursuant to 19-3-2117 and 19-21-214.

1 (5) The board shall require the actuary to conduct and report on a periodic actuarial investigation
2 into the actuarial experience of the retirement systems and plans.

3 (6) The board may require the actuary to conduct any valuation necessary to administer the
4 retirement systems and the plans subject to this chapter.

5 (7) The board shall provide copies of the reports required pursuant to subsections (2) and (5) to
6 the state administration and veterans' affairs interim committee and to the legislature pursuant to 5-11-210.

7 (8) The board shall require the actuary to prepare for each employer participating in a retirement
8 system the disclosures or the information required to be included in the disclosures as required by law and by
9 the governmental accounting standards board or its generally recognized successor."
10

10

11 **Section 3.** Section 19-2-409, MCA, is amended to read:

12 **"19-2-409. Plans to be funded on actuarially sound basis -- definition.** As required by Article VIII,
13 section 15, of the Montana constitution, each system must be funded on an actuarially sound basis. For
14 purposes of this section, "actuarially sound basis" means that contributions to each retirement plan must be
15 sufficient to pay the full actuarial cost of the plan. For a defined benefit plan, the full actuarial cost includes both
16 the normal cost of providing benefits as they accrue in the future and the cost of amortizing unfunded liabilities
17 over a scheduled period of no more than 30 years, except that with respect to the public employees' retirement
18 system's defined benefit plan, the unfunded liabilities must be paid over the periods provided for in 19-3-316.
19 For the defined contribution plan, the full actuarial cost is the contribution defined by law that is payable to an
20 account on behalf of the member."
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21

22 **Section 4.** Section 19-3-315, MCA, is amended to read:

23 **"19-3-315. Member's contribution to be deducted.** (1) ~~(a)~~ Except as provided in subsection (2),
24 each member's contribution is 7.9% of the member's compensation.

25 ~~(b) The board shall annually review the required contributions and recommend future adjustments to~~
26 ~~the legislature as needed to maintain the amortization schedule set by the board for the payment of the~~
27 ~~system's unfunded liability.~~

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

1 defined benefit plan's annual actuarial valuation if the valuation determines that the plan's funded ratio is at
 2 least 100% and reducing the employee contribution pursuant to this subsection and ~~reducing the employer~~
 3 ~~contribution pursuant to 19-3-316(4)~~ terminating the employer supplemental contribution pursuant to 19-3-
 4 319(3) would not cause the system's amortization period to exceed 25 years the plan's funded ratio to be less
 5 than 100%.

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

9 (4) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code, 26 U.S.C.
 10 414(h)(2), shall pick up and pay the contributions that would be payable by the member under subsection (1) or
 11 (2) for service rendered after June 30, 1985.

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

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

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

20 (6) The member's contributions picked up by the employer must be payable from the same source
 21 as is used to pay compensation to the member and must be included in the member's wages, as defined in 19-
 22 1-102, and compensation. The employer shall deduct from the member's compensation an amount equal to the
 23 amount of the member's contributions picked up by the employer and remit the total of the contributions to the
 24 board."

25

26 **Section 5.** Section 19-3-316, MCA, is amended to read:

27 **"19-3-316. Employer contribution rates -- definitions.** ~~(1) Each employer shall contribute to the~~
 28 ~~system. Except as provided in subsection (2), the employer shall pay as employer contributions 6.9% of the~~

1 compensation paid to all of the employer's employees plus any additional contribution under subsection (3),
2 except for those employees properly excluded from membership. Of employer contributions made under this
3 subsection for both defined benefit plan and defined contribution plan members, a portion must be allocated for
4 educational programs as provided in 19-3-112. Employer contributions for members under the defined
5 contribution plan must be allocated as provided in 19-3-2117.

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

8 ~~(3) (a) Subject to subsection (4), each employer shall contribute to the system an additional employer~~
9 ~~contribution equal to the percentage specified in subsection (3)(b) of the compensation paid to all of the~~
10 ~~employer's employees, except for those employees properly excluded from membership.~~

11 ~~(b) The percentage of compensation to be contributed under subsection (3)(a) is 1.27% for fiscal year~~
12 ~~2014 and increases by 0.1% each fiscal year through fiscal year 2024. For fiscal years beginning after June 30,~~
13 ~~2024, the percentage of compensation to be contributed under subsection (3)(a) is 2.27%.~~

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

17 ~~(b) The employer contribution required under subsection (3) terminates on January 1 following the~~
18 ~~board's receipt of the system's actuarial valuation if the actuarial valuation determines that terminating the~~
19 ~~additional employer contribution pursuant to this subsection (4)(b) and reducing the employee contribution~~
20 ~~pursuant to 19-3-315 (2) would not cause the amortization period to exceed 25 years (1) Beginning July 1,~~
21 ~~2023, through June 30, 2024, each employer shall contribute an amount equal to 9.29% of the compensation of~~
22 ~~all the employer's employees in the defined benefit plan and the defined contribution plan, except for those~~
23 ~~properly excluded from membership. Of employer contributions made under this subsection for both defined~~
24 ~~benefit plan and defined contribution plan members, a portion must be allocated for educational programs as~~
25 ~~provided in 19-3-112. Of employer contributions made for members of the defined contribution plan, 7.9% must~~
26 ~~go to the defined contribution plan, and the remaining amount must go to the defined benefit plan's legacy~~
27 ~~unfunded liability.~~

28 ~~(2) (a) Beginning July 1, 2024, each employer shall contribute to the defined benefit plan the~~

1 actuarially determined employer contribution that is determined annually by the public employees' retirement
2 system's actuary in accordance with the provisions of this section and part of the plan's annual actuarial
3 valuation. This actuarially determined employer contribution is effective July 1 following the annual actuarial
4 valuation completed in the prior calendar year.

5 (b) Beginning July 1, 2024, each employer shall contribute the actuarially determined employer
6 contribution for employees in the defined contribution plan. Of the total amount, 7.9% must go to the defined
7 contribution plan, and the remaining amount must go to the defined benefit plan's legacy unfunded liability.

8 (c) The actuarially determined employer contribution must be the sum of the following contribution
9 rates, minus the employee contribution provided in 19-3-315 and the state contributions provided in 19-3-319
10 and 19-3-320:

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

12 (ii) the contribution rate determined under subsection (2)(e) to pay for the contemporary unfunded
13 liability;

14 (iii) the contribution rate determined under subsection (2)(f) to pay for the normal cost of benefits
15 as they accrue; and

16 (iv) a contribution of 0.04% of compensation for the employer's employees who are members of
17 either the defined contribution plan or the defined benefit plan for educational programs as provided in 19-3-
18 112.

19 (d) (i) The contribution rate under subsection (2)(c)(i) for the legacy unfunded liability must be the
20 amount required on a level dollar basis to amortize the legacy unfunded liability attributable to the employer's
21 employees who are members of either the defined contribution plan or the defined benefit plan over a closed
22 30-year amortization period beginning July 1, 2023, except as provided in subsection (2)(c)(ii).

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

26 (e) The contribution rate under subsection (2)(c)(ii) for the contemporary unfunded liability must be
27 the amount required on a level dollar basis to pay the annual contemporary unfunded liabilities attributable to
28 the employer's employees who are members of either the defined contribution plan or the defined benefit plan

1 over a layered amortization schedule so that each fiscal year's contemporary unfunded liability is amortized
 2 over a closed 10-year period, starting with the contemporary unfunded liability for the fiscal year ending June
 3 30, 2024.

4 (f) The contribution rate under subsection (2)(c)(iii) for the normal cost of benefits as they accrue
 5 must be the amount required on a level dollar basis to pay the normal cost of benefits as determined in the
 6 annual actuarial valuation as the benefits accrue for each of the employer's employees who are members of
 7 either the defined contribution plan or the defined benefit plan.

8 (3) (a) Beginning July 1, 2023, each employer shall contribute to the defined contribution plan an
 9 amount equal to 7.9%. Of employer contributions made under this subsection (3)(a) for defined contribution
 10 plan members, a portion must be allocated for educational programs as provided in 19-3-112.

11 (b) The employer contribution under subsection (3)(a) must be allocated as provided in 19-3-2117.

12 (c) The employer contribution rate for the defined contribution plan may not be lower than 7.9%,
 13 even if the actuarially determined contribution rate for the defined benefit plan is less than 7.9%.

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

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

17 (b) "Legacy unfunded liability" means the unfunded liability of the defined benefit plan as of June
 18 30, 2023."

19

20 **Section 6.** Section 19-3-319, MCA, is amended to read:

21 **"19-3-319. State contributions for local government and school district employers.** ~~(1)~~ (1)

22 Subject to subsection (3), the state shall contribute monthly from the general fund to the pension trust fund a
 23 sum equal to 0.1% of the compensation paid to all employees of local government entities and school districts
 24 on and after July 1, 1997, except those employees properly excluded from membership.

25 ~~(2)~~ (a) ~~Subject to subsection (2)(b)~~ Subject to subsection (3), in addition to the contribution
 26 required under subsection (1), the state shall contribute monthly from the general fund to the pension trust fund
 27 a sum equal to 0.27% of the compensation paid to all employees of school districts except for those employees
 28 properly excluded from membership.

1 ~~(b)(3)~~ The additional contribution under subsection (2)(a) terminates when the additional contribution
2 ~~under 19-3-316 (3) terminates~~ contributions in this section terminate January 1 following the defined benefit
3 plan's annual actuarial valuation if the valuation determines that the plan's funded ratio is at least 100% and
4 terminating the contribution pursuant to this subsection and reducing the employee contribution pursuant to 19-
5 3-315(2) would not cause the funded ratio to be less than 100%.

6 ~~(3)(4)~~ The board shall certify amounts due under this section on a monthly basis, and the state
7 treasurer shall transfer those amounts to the pension trust fund within 1 week. The payments in this section are
8 statutorily appropriated as provided in 17-7-502."

9

10 **Section 7.** Section 19-3-1605, MCA, is amended to read:

11 **"19-3-1605. Guaranteed annual benefit adjustment.** (1) Subject to subsection (2), on January 1 of
12 each year, the permanent monthly benefit payable during the preceding January to each recipient who is
13 eligible under subsection (3) must be increased by the applicable percentage provided in subsection (4).

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

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

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

27 (3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the
28 minimum annual benefit adjustment provided for in this section if the benefit's commencement date is at least

1 12 months prior to January 1 of the year in which the adjustment is to be made.

2 (4) (a) The applicable percentage increase under subsection (1) is 3% if the member was hired or
3 assumed office:

4 (i) before July 1, 2007; or

5 (ii) on or after July 1, 2007, and before July 1, 2013, and the benefit recipient is a member of a
6 retirement system provided for in this title, and the guaranteed annual benefit adjustment provision for that
7 member under that system is a 3% benefit increase.

8 (b) The applicable percentage increase under subsection (1) is 1.5% if the member was hired or
9 assumed office on or after July 1, 2007, and before June 30, 2013, and the benefit recipient is not otherwise
10 covered under subsection (4)(a)(ii).

11 (c) The applicable percentage increase under subsection (1) is 1.5% if the member was hired or
12 assumed office on or after July 1, 2013, subject to reduction as provided in subsection (5).

13 (5) ~~(a) Except as provided in subsection (5)(b), if~~ If the most recent actuarial valuation of the
14 retirement system shows that retirement system liabilities are less than 90% funded, the applicable percentage
15 increase in subsection (4)(c) must be reduced by 0.1% for each 2% below that 90% funding level.

16 ~~(b) If the amortization period is 40 years or greater, the applicable percentage increase in subsection~~
17 ~~(4)(c) must be reduced to 0% and the retirement allowance may not be increased.~~

18 (6) The board shall adopt rules to administer the provisions of this section."
19

20 **Section 8.** Section 19-3-2111, MCA, is amended to read:

21 **"19-3-2111. Plan membership -- written election required -- failure to elect -- effect of election.**

22 (1) Except as otherwise provided in this part:

23 (a) a member who was an inactive member of the defined benefit plan on the effective date of the
24 defined contribution plan and who is rehired into covered employment after the plan effective date may, within
25 the 12-month period provided for in subsection (2)(a), elect to transfer to and become a member of the plan
26 regardless of whether the member remains active, becomes inactive, or terminates employment and plan
27 membership within the 12-month period;

28 (b) a member who is initially hired into covered employment on or after the effective date of the

1 defined contribution plan may, within the 12-month period provided for in subsection (2)(a), elect to become a
2 member of the plan regardless of whether the member remains active, becomes inactive, or terminates
3 employment and plan membership within the 12-month period.

4 (2) (a) Elections made pursuant to this section must be made on a form prescribed by the board
5 and must be made within 12 months from the month that the employer properly reports the new or rehired
6 member to the board.

7 (b) A member failing to make an election prescribed by this section remains a member of the
8 ~~defined benefit~~ defined contribution plan.

9 (c) An election under this section, including the default election pursuant to subsection (2)(b), is a
10 one-time irrevocable election. Subject to 19-3-2113, this subsection (2)(c) does not prohibit a new election after
11 a member has terminated membership in either plan and returned to covered employment.

12 (3) A member in either the defined benefit plan or the defined contribution plan who becomes
13 inactive after an election under this section and who returns to active membership remains in the plan
14 previously elected.

15 (4) A system member may not simultaneously be a member of the defined benefit plan and the
16 defined contribution plan and must be a member of either the defined benefit plan or the defined contribution
17 plan. A period of service may not be credited in more than one retirement plan within the system.

18 (5) The provisions of this part do not prohibit the board from adopting rules to allow an employee
19 to elect the defined contribution plan from the first day of covered employment.

20 (6) A member of the defined benefit plan who is subject to a family law order pursuant to 19-2-907
21 or an execution or income-withholding order pursuant to 19-2-909 may not transfer to the defined contribution
22 plan unless the order is modified to apply under the defined contribution plan.

23 (7) (a) A member of the defined benefit plan who is purchasing service credit through installment
24 payments, either made directly to the board or pursuant to a payroll deduction agreement, may not transfer
25 membership to the defined contribution plan unless the member first completes or terminates the contract for
26 purchase of service credit.

27 (b) A member who files an election to transfer membership may make a lump-sum payment for up
28 to the balance of the service credit remaining to be purchased prior to transferring, subject to the limitations of

1 section 415 of the Internal Revenue Code. The lump-sum payment, unless made by a rollover pursuant to 19-2-
2 708, must be made with after-tax dollars.

3 (c) If a member who files an election to transfer membership fails to complete or terminate the
4 contract for purchase of service credit by the end of the member's 12-month election window, the board shall
5 terminate the service purchase contract and credit the member with the prorated amount of service credit
6 purchased under the contract."

7

8 **Section 9.** Section 19-3-2117, MCA, is amended to read:

9 **"19-3-2117. Allocation of contributions and forfeitures.** (1) The member contributions made under
10 19-3-315 and additional contributions paid by the member for the purchase of service must be allocated to the
11 plan member's retirement account.

12 (2) ~~Subject to subsections (3) and (4), of the employer contributions under 19-3-316 received: The~~
13 employer's contribution received under 19-3-316(2) must be allocated as follows:

14 ~~(a) an amount equal to:~~

15 ~~(i)(a) 4.19% the percentage of compensation specified under 19-3-316(3)(a) minus the amounts~~
16 specified in subsections (2)(b) and (2)(c) of this section must be allocated to the member's retirement account;

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

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

19 and

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

22 ~~(b) on July 1, 2009, continuing until the additional employer contributions terminate pursuant to 19-3-~~
23 ~~316(4)(b), the percentage specified in subsection (3) of this section of compensation must be allocated to the~~
24 ~~defined benefit plan to eliminate the plan choice rate unfunded actuarial liability;~~

25 ~~(c) on July 1, 2013, and continuing until June 30, 2015, an amount equal to 1% of compensation must~~
26 ~~be allocated to the defined benefit plan unfunded liabilities; and~~

27 ~~(d) on July 1, 2015, and continuing until the plan choice rate unfunded actuarial liability in the defined~~
28 ~~benefit plan is fully paid, an amount equal to 1% of compensation must be allocated to the defined benefit plan~~

1 as part of the plan choice rate. Effective the first full pay period in the month following the board's verification
 2 that the plan choice rate unfunded actuarial liability is paid off, the amount equal to 1% of compensation must
 3 be allocated to the member's retirement account until the additional employer contributions terminate pursuant
 4 to 19-3-316(4)(b).

5 ~~(3) The percentage of compensation to be contributed under subsection (2)(b) is 0.27% for fiscal year~~
 6 ~~2014 and increases by 0.1% each fiscal year through fiscal year 2024. For fiscal years beginning after June 30,~~
 7 ~~2024, the percentage of compensation to be contributed under subsection (2)(b) is 1.27%.~~

8 ~~(4) Effective the first full pay period in the month following the board's verification that the plan choice~~
 9 ~~rate unfunded actuarial liability is paid off, the 2.37% of compensation in subsection (2)(a)(ii) and the~~
 10 ~~percentage of compensation in subsection (3), if any, must be allocated to the member's retirement account.~~

11 ~~(5)(3)~~ Forfeitures of employer contributions and investment income on the employer contributions
 12 may not be used to increase a member's retirement account. The board shall allocate the forfeitures under 19-
 13 3-2116 to meet the plan's administrative expenses, including startup expenses."

14

15 **Section 10.** Section 19-21-214, MCA, is amended to read:

16 **"19-21-214. Contributions and allocations for employees in positions covered under public**
 17 **employees' retirement system.** (1) The contribution rates for employees in positions covered under the public
 18 employees' retirement system who elect to become program members pursuant to 19-3-2112 are as follows:

19 (a) the member's contribution rate must be the rate provided in 19-3-315; and

20 (b) the employer's contribution rate must be the rate provided in 19-3-316(3).

21 (2) ~~Subject to subsections (3) and (4), of the~~ The employer's contribution received under 19-3-
 22 316(3):

23 ~~(a) an amount equal to:~~ must be allocated as follows:

24 ~~(i)(a) 4.49% the percentage of compensation specified under 19-3-316(3)(a) minus the amount~~
 25 specified in subsection (2)(b) of this section must be allocated to the participant's program account;

26 ~~(ii) 2.37% of compensation must be allocated to the defined benefit plan under the public employees'~~
 27 ~~retirement system as the plan choice rate; and~~

28 ~~(iii)(b) 0.04% of compensation must be allocated to the education fund pursuant to 19-3-112(1)(b);~~

1 (b)—on July 1, 2009, continuing until the additional employer contributions terminate pursuant to 19-3-
2 316(4)(b), an amount equal to 0.27% of compensation must be allocated to the defined benefit plan to eliminate
3 the plan choice rate unfunded actuarial liability;

4 (c)—on July 1, 2013, and continuing until June 30, 2015, an amount equal to 1% of compensation must
5 be allocated to the defined benefit plan unfunded liabilities; and

6 (d)—on July 1, 2015, and continuing until the plan choice rate unfunded actuarial liability in the defined
7 benefit plan is fully paid, an amount equal to 1% of compensation must be allocated to the defined benefit plan
8 as part of the plan choice rate. Effective the first full pay period in the month following the board's verification
9 that the plan choice rate unfunded actuarial liability is paid off, the amount equal to 1% of compensation must
10 be allocated to the member's retirement account until the additional employer contributions terminate pursuant
11 to 19-3-316(4)(b).

12 (3)—The percentage of compensation amount to be allocated under subsection (2)(b) must be
13 increased by 0.1% each fiscal year through fiscal year 2024. For fiscal years beginning after June 30, 2024, the
14 percentage of compensation amount to be allocated under subsection (2)(b) must be 1.27%.

15 (4)—Effective the first full pay period in the month following the board's verification that the plan choice
16 rate unfunded actuarial liability is paid off, amounts equal to the 2.37% of compensation in subsection (2)(a)(ii)
17 and the percentage of compensation in subsection (2)(b), if any, must be allocated to the member's retirement
18 account."

19

20 NEW SECTION. Section 11. Effective date. [This act] is effective July 1, 2023.

21

- END -