

SENATE BILL NO. 407

INTRODUCED BY FRITZ, FORRESTER, BIANCHI, MCCLERNAN,
REAM, NATHE, SCHYE, HARPER
BY REQUEST OF THE BOARD OF REGENTS OF HIGHER
EDUCATION AND THE MONTANA TEACHERS' RETIREMENT BOARD

IN THE SENATE

FEBRUARY 15, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
FEBRUARY 19, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
	PRINTING REPORT.
FEBRUARY 22, 1993	SECOND READING, DO PASS.
FEBRUARY 23, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 44; NOES, 5.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 23, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
MARCH 10, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 13, 1993	SECOND READING, CONCURRED IN.
MARCH 16, 1993	THIRD READING, CONCURRED IN. AYES, 81; NOES, 16.
MARCH 17, 1993	RETURNED TO SENATE.

IN THE SENATE

MARCH 18, 1993	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *407*
 2 INTRODUCED BY *Frank Lautenberg* *Barbara Lister* *Beaman*
 3 BY REQUEST OF THE BOARD OF REGENTS OF HIGHER *Edye*
 4 EDUCATION AND THE MONTANA TEACHERS' RETIREMENT BOARD *Hagan*

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE UNIVERSITY
 7 SYSTEM OPTIONAL RETIREMENT PROGRAM; CHANGING THE EMPLOYER
 8 AND EMPLOYEE CONTRIBUTIONS TO THE OPTIONAL RETIREMENT PLAN;
 9 REQUIRING ALL ELIGIBLE PERSONS WHO ARE NEWLY HIRED TO JOIN
 10 THE OPTIONAL RETIREMENT PLAN; AMENDING SECTIONS 19-4-302,
 11 19-21-111, 19-21-201, AND 19-21-203, MCA; AND PROVIDING AN
 12 EFFECTIVE DATE."

13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 **Section 1.** Section 19-4-302, MCA, is amended to read:

16 "19-4-302. Active membership. (1) Unless otherwise
 17 provided by this chapter, the following persons must be
 18 active members of the retirement system, with the exception
 19 that those persons who became eligible for membership on
 20 September 1, 1937, or on September 1, 1939, and who elected
 21 not to become members under the provisions of the law at
 22 that time are not required to be members:

23 (a) any person who is a teacher, principal, or district
 24 superintendent as defined in 20-1-101;

25 (b) any person who is an administrative officer or a

1 member of the instructional or scientific staff of:

2 (i) a vocational-technical center; or

3 (ii) a unit of the Montana university system and who has
 4 not elected or is not required to participate in the
 5 optional retirement program under Title 19, chapter 21;

6 (c) any person employed as a speech therapist, school
 7 nurse, or school psychologist or in an instructional
 8 services capacity by the office of the superintendent of
 9 public instruction, the office of a county superintendent, a
 10 special education cooperative, a public institution of the
 11 state of Montana, the Montana state school for the deaf and
 12 blind, or a school district;

13 (d) any person who is an administrative officer or a
 14 member of the instructional staff of the board of public
 15 education;

16 (e) any person who has elected not to become a member
 17 of the retirement system and is reentering service in a
 18 capacity prescribed by (a), (b), (c), or (d) of this
 19 subsection (1);

20 (f) any person who has elected not to become a member
 21 of the retirement system, who has been continuously employed
 22 in a capacity prescribed by (a), (b), (c), or (d) of this
 23 subsection (1) since the time of such the election, and who
 24 may thereafter elect to become a member of the retirement
 25 system.

(2) In order to be eligible for active membership, any person described in subsection (1) must:

(a) be employed in the capacity prescribed for his the person's eligibility for at least 30 days in any fiscal year; and

(b) have the compensation for his the person's creditable service totally paid by an employer as defined herein.

(3) (a) A substitute teacher:

(i) may elect to become an active member of the retirement system on the first day of employment in any fiscal year; or

(ii) shall become an active member of the retirement system on the 31st day of employment in any fiscal year if he the substitute teacher has not elected membership under subsection (3)(a)(i).

(b) The employer shall give written notification to a substitute teacher on his the first day of employment in any fiscal year of his the option to elect membership under subsection (3)(a)(i).

(4) A substitute teacher who did not elect membership under subsection (3)(a)(i) and subsequently becomes a member must be awarded creditable service for his substitute teaching service if he the substitute teacher contributes:

(a) an amount equal to the combined employee and

employer contributions that would have been made if he the substitute teacher had elected membership; plus

(b) interest at the rate the contributions would have earned if they had been on deposit with the retirement system.

(5) At any time a person's eligibility to become a member of the retirement system is in doubt, the retirement board shall determine his the person's eligibility for membership. All persons in similar circumstances shall be treated alike."

Section 2. Section 19-21-111, MCA, is amended to read:

"19-21-111. Actuarial investigation to determine past service liability compared to contributions required. (1) The legislative auditor shall, using independent actuarial assistance as necessary and in cooperation with the teachers' retirement board and the board of regents, determine the dollar value of past service liability of active, inactive, and retired teachers' retirement system members of the Montana university system as compared to contributions required of the Montana university system on behalf of teachers' retirement system members pursuant to 19-4-605. The legislative auditor shall report his any findings to the 53rd legislature. The office of the commissioner of higher education shall pay for the determination, required by this section, of past service

liability of teachers' retirement system members compared to contributions required of the Montana university system.

(2) If the valuation determines that the percentage contribution established in 19-21-203(2)(b)(5) has an adverse effect on the amortization of the unfunded liability, then the board of regents shall pay an additional sum over a period of 40 years to rectify the adverse effect.

(3) Changes in the teachers' retirement system occurring after July 1, 1987, that create additional unfunded liabilities may not be considered in the valuation, and the board of regents may not be required to pay any additional sum on that account except to the extent that those changes benefit members of the teachers' retirement system who are employees of the Montana university system.

(4) If the valuation determines that the board of regents is paying an amount in excess of that needed to amortize the unfunded liability, the teachers' retirement board shall credit the board of regents for the excess payments. The board of regents shall credit the active participants in the optional retirement program with the excess payments."

Section 3. Section 19-21-201, MCA, is amended to read:

"19-21-201. Participation in program. (1) Academic Except as provided in subsection (2), academic and professional administrative personnel with individual

contracts under the authority of the board of regents are eligible for and may elect to participate in the optional retirement program instead of the teachers' retirement system. This election must be exercised:

(a) before January 1, 1988, for an eligible person hired before July 1, 1987;

(b) within 90 days after entry into service or before January 1, 1988, whichever is later, for a person hired in an eligible position on or after July 1, 1987; and

(c) within 30 days after receiving written notice of eligibility or before January 1, 1988, whichever is later, for an employee who becomes eligible to participate in the optional retirement program by reason of appointment, promotion, transfer, or reclassification to an eligible position.

(2) (a) An eligible person hired on or after July 1, 1993, shall become a member of the optional retirement plan unless the person is, on the date hired, an active, inactive, or retired member of a public retirement system created in Title 19, chapter 3 or 4.

(b) A person hired who is a member of a public retirement system created in Title 19, chapter 3 or 4, shall elect to:

(i) remain with the retirement system of which the person is a member on the date hired; or

(ii) become a member of the optional retirement plan.

(c) A person eligible to make an election under this subsection (2) shall exercise the election within 30 days of being hired.

{2}{3} The election must be exercised by filing a written notice with the teachers' retirement system and the disbursing officer of the employer. The election is effective as of the date the notice is filed or January 1, 1988, whichever is later.

{3}{4} If an eligible officer or staff member fails to exercise the election, as provided by this section, that person must remain or become a member of the teachers' retirement system.

{4}{5} An election under this section is not effective unless the notice filed with the disbursing officer of the employer is accompanied by an appropriate application, if one is required, for the issuance of a contract or contracts under the program."

Section 4. Section 19-21-203, MCA, is amended to read:

"19-21-203. Contributions. (1) Each optional retirement program participant shall contribute an amount equal to the member's contribution required under 19-4-602. The board of regents shall contribute an amount equal--to--the--employer contribution--required--under--19-4-605;

{2}--The---board---of---regents--contribution--must--be

apportioned-and-paid-as-follows-

{a}--to--the--designated-company-or-companies,--an--amount equal-to-the-greater-of:

{i}--the---employer---contribution---to---the---teachers' retirement-system-not-used-to-amortize-past-service-unfunded liability--as--that--unfunded--liability---is---limited---by 19-21-111, or

{ii}--an--amount that, when added to the participant's contribution, is equal to 10% 12% of the participant's earned compensation; and

{b}--to--the--teachers' retirement-system, the balance of the board of regents' contribution.

(2) (a) On or after July 1, 1997, the board of regents may:

(i) reduce the participant's contribution rate established in subsection (1) to an amount not less than 6% of the participant's earned compensation; and

(ii) increase the employer's contribution rate to an amount not greater than 6% of the participant's earned compensation.

(b) The sum of the participant's and employer's contributions made under subsection (2)(a) must remain at 12% of the participant's earned compensation.

(3) The board of regents shall determine whether the participant's contribution is to be made by salary reduction

1 under section 403(b) of the Internal Revenue Code of 1954 or
2 by employer pick-up under section 414(h)(2) of that code.

3 (4) The disbursing officer of the employer or other
4 official designated by the board of regents shall pay both
5 the participant's contribution and the appropriate portion
6 of the regents' contribution to the designated company or
7 companies for the benefit of the participant.

8 (5) (a) The board of regents shall contribute the
9 amounts specified in subsection (5)(b) to the teachers'
10 retirement system to discharge the obligation incurred by
11 the employees of the Montana university system who elect or
12 who are required to become members of the optional
13 retirement plan. The contributions paid by the board are for
14 the past service liability incurred by active, inactive, and
15 retired members of the teachers' retirement system and must
16 be consistent with the requirements of 19-21-111.

17 (b) (i) Beginning July 1, 1993, through June 30, 1997,
18 the contributions to be made by the board of regents must
19 equal 2.503% of earned compensation attributable to optional
20 retirement participants.

21 (ii) Beginning July 1, 1997, the contribution rate must
22 be adjusted, pursuant to 19-4-201, based on the actual
23 experience of the members of the Montana university system
24 who are members of the teachers' retirement system, and must
25 be set at a rate sufficient to amortize the past service

1 liability of the university system members by July 1, 2033."

2 NEW SECTION. Section 5. Effective date. [This act] is
3 effective July 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0407, as introduced.


DESCRIPTION OF PROPOSED LEGISLATION:


An act amending the university system optional retirement program and requiring all eligible persons who are newly hired to join the optional retirement plan.

ASSUMPTIONS:

1. Amortization of the TRS unfunded liabilities require that all employers contribute a percentage of all eligible employee salaries. Under the Optional Retirement Program (ORP) eligible employees are not reported to the TRS; however, a continuing contribution by university system is required to amortize these unfunded liabilities.
2. Salaries of university system employees who are members of the ORP will be \$24,895,000 in FY94 and \$26,513,200 in FY95.
3. The reduction in the contribution rate paid by the university system, as a percentage of ORP participants salaries, to the TRS, from 4.503% to 2.503%, to fund the university system's share of the TRS unfunded liabilities will not adversely affect the university system's ability to amortize its share of the unfunded liabilities by the year 2033.
4. The number of new hires in the university system will not be greater or less than that experienced since enactment of the ORP. And requiring all new hires to join the optional retirement plan will not adversely affect the funding of the Teachers' Retirement System. This requirement will reduce any opportunity for adverse selection against the TRS.
5. Effective July 1, 1997, the contribution rate required to amortize the unfunded liabilities of the university system by July 1, 2033, will be based only upon the actual experience of the university system employees who are members of the teachers' retirement system.
6. The period of time required to amortize the unfunded liabilities attributable to the remainder of the TRS membership who are not employees of the university will remain unchanged.

(continued)

 2-19-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2/22/93
HARRY FRITZ PRIMARY SPONSOR DATE
Fiscal Note for SB0407, as introduced
5B 407

FISCAL IMPACT:

MONTANA UNIVERSITY SYSTEM

No fiscal impact on university system. Total employee and employer contribution remains the same; proposed legislation reallocates the retirement contribution between the Optional Retirement Plan (ORP) and Teachers Retirement Plan (TRS).

	<u>Current Law</u>	<u>Proposed Law</u>
Employee Contribution	7.044%	7.044%
Employer Contribution - ORP	2.956%	4.956%
Employer Contribution - TRS	<u>4.503%</u>	<u>2.503%</u>
Total Contribution	14.503%	14.503%

TEACHER'S RETIREMENT SYSTEM

	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Total University System TRS Contribution	2,585,366	2,087,468	(497,900)	2,746,097	2,215,832	(530,264)

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Amortization of the university system's share of the TRS unfunded liabilities will require 6 more years than the period of time required to amortization the balance of the TRS unfunded liabilities.

SB 407

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

1 *Sarah* BILL NO. *407*
2 INTRODUCED BY *Frank Longenecker* *Branch* *Deer* *Beam*
3 BY REQUEST OF THE BOARD OF REGENTS OF HIGHER *Lehje*
4 EDUCATION AND THE MONTANA TEACHERS' RETIREMENT BOARD *Hoyner*

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17 provided by this chapter, the following persons must be
18 active members of the retirement system, with the exception
19 that those persons who became eligible for membership on
20 September 1, 1937, or on September 1, 1939, and who elected
21 not to become members under the provisions of the law at
22 that time are not required to be members:

23 (a) any person who is a teacher, principal, or district
24 superintendent as defined in 20-1-101;

25 (b) any person who is an administrative officer or a

1 member of the instructional or scientific staff of:

2 (i) a vocational-technical center; or

3 (ii) a unit of the Montana university system and who has
4 not elected or is not required to participate in the
5 optional retirement program under Title 19, chapter 21;

6 (c) any person employed as a speech therapist, school
7 nurse, or school psychologist or in an instructional
8 services capacity by the office of the superintendent of
9 public instruction, the office of a county superintendent, a
10 special education cooperative, a public institution of the
11 state of Montana, the Montana state school for the deaf and
12 blind, or a school district;

13 (d) any person who is an administrative officer or a
14 member of the instructional staff of the board of public
15 education;

16 (e) any person who has elected not to become a member
17 of the retirement system and is reentering service in a
18 capacity prescribed by (a), (b), (c), or (d) of this
19 subsection (1);

20 (f) any person who has elected not to become a member
21 of the retirement system, who has been continuously employed
22 in a capacity prescribed by (a), (b), (c), or (d) of this
23 subsection (1) since the time of such the election, and who
24 may thereafter elect to become a member of the retirement
25 system.

(2) In order to be eligible for active membership, any person described in subsection (1) must:

(a) be employed in the capacity prescribed for his the person's eligibility for at least 30 days in any fiscal year; and

(b) have the compensation for his the person's creditable service totally paid by an employer as-defined herein.

(3) (a) A substitute teacher:

(i) may elect to become an active member of the retirement system on the first day of employment in any fiscal year; or

(ii) shall become an active member of the retirement system on the 31st day of employment in any fiscal year if he the substitute teacher has not elected membership under subsection (3)(a)(i).

(b) The employer shall give written notification to a substitute teacher on his the first day of employment in any fiscal year of his the option to elect membership under subsection (3)(a)(i).

(4) A substitute teacher who did not elect membership under subsection (3)(a)(i) and subsequently becomes a member must be awarded creditable service for his substitute teaching service if he the substitute teacher contributes:

(a) an amount equal to the combined employee and

employer contributions that would have been made if he the substitute teacher had elected membership; plus

(b) interest at the rate the contributions would have earned if they had been on deposit with the retirement system.

(5) At any time a person's eligibility to become a member of the retirement system is in doubt, the retirement board shall determine his the person's eligibility for membership. All persons in similar circumstances shall be treated alike."

Section 2. Section 19-21-111, MCA, is amended to read:

"19-21-111. Actuarial investigation to determine past service liability compared to contributions required. (1) The legislative auditor shall, using independent actuarial assistance as necessary and in cooperation with the teachers' retirement board and the board of regents, determine the dollar value of past service liability of active, inactive, and retired teachers' retirement system members of the Montana university system as compared to contributions required of the Montana university system on behalf of teachers' retirement system members pursuant to 19-4-605. The legislative auditor shall report his any findings to the 53rd legislature. The office of the commissioner of higher education shall pay for the determination, required by this section, of past service

liability of teachers' retirement system members compared to contributions required of the Montana university system.

(2) If the valuation determines that the percentage contribution established in 19-21-203+2+(b)(5) has an adverse effect on the amortization of the unfunded liability, then the board of regents shall pay an additional sum over a period of 40 years to rectify the adverse effect.

(3) Changes in the teachers' retirement system occurring after July 1, 1987, that create additional unfunded liabilities may not be considered in the valuation, and the board of regents may not be required to pay any additional sum on that account except to the extent that those changes benefit members of the teachers' retirement system who are employees of the Montana university system.

(4) If the valuation determines that the board of regents is paying an amount in excess of that needed to amortize the unfunded liability, the teachers' retirement board shall credit the board of regents for the excess payments. The board of regents shall credit the active participants in the optional retirement program with the excess payments."

Section 3. Section 19-21-201, MCA, is amended to read:

"19-21-201. Participation in program. (1) Academic Except as provided in subsection (2), academic and professional administrative personnel with individual

contracts under the authority of the board of regents are eligible for and may elect to participate in the optional retirement program instead of the teachers' retirement system. This election must be exercised:

(a) before January 1, 1988, for an eligible person hired before July 1, 1987;

(b) within 90 days after entry into service or before January 1, 1988, whichever is later, for a person hired in an eligible position on or after July 1, 1987; and

(c) within 30 days after receiving written notice of eligibility or before January 1, 1988, whichever is later, for an employee who becomes eligible to participate in the optional retirement program by reason of appointment, promotion, transfer, or reclassification to an eligible position.

(2) (a) An eligible person hired on or after July 1, 1993, shall become a member of the optional retirement plan unless the person is, on the date hired, an active, inactive, or retired member of a public retirement system created in Title 19, chapter 3 or 4.

(b) A person hired who is a member of a public retirement system created in Title 19, chapter 3 or 4, shall elect to:

(i) remain with the retirement system of which the person is a member on the date hired; or

(ii) become a member of the optional retirement plan.

(c) A person eligible to make an election under this subsection (2) shall exercise the election within 30 days of being hired.

{2}{3} The election must be exercised by filing a written notice with the teachers' retirement system and the disbursing officer of the employer. The election is effective as of the date the notice is filed or January 1, 1988, whichever is later.

{3}{4} If an eligible officer or staff member fails to exercise the election, as provided by this section, that person must remain or become a member of the teachers' retirement system.

{4}{5} An election under this section is not effective unless the notice filed with the disbursing officer of the employer is accompanied by an appropriate application, if one is required, for the issuance of a contract or contracts under the program."

Section 4. Section 19-21-203, MCA, is amended to read:

"19-21-203. Contributions. (1) Each optional retirement program participant shall contribute an amount equal to the member's contribution required under 19-4-602. The board of regents shall contribute an amount ~~equal--to--the--employer contribution--required--under--19-4-605.~~

{2}--The---board---of---regents'---contribution---must---be

~~apportioned and paid as follows:~~

~~{a}--to--the--designated--company--or--companies,--an--amount equal--to--the--greater--of:~~

~~{i}--the---employer---contribution---to---the---teachers' retirement--system--not--used--to--amortize--past--service--unfunded liability--as--that--unfunded--liability---is---limited---by 19-21-111;--or~~

~~{ii}--an--amount that, when added to the participant's contribution, is equal to 10% 12% of the participant's earned compensation;--and~~

~~{b}--to--the--teachers'--retirement--system,--the--balance--of the--board--of--regents'--contribution.~~

(2) (a) On or after July 1, 1997, the board of regents may:

(i) reduce the participant's contribution rate established in subsection (1) to an amount not less than 6% of the participant's earned compensation; and

(ii) increase the employer's contribution rate to an amount not greater than 6% of the participant's earned compensation.

(b) The sum of the participant's and employer's contributions made under subsection (2)(a) must remain at 12% of the participant's earned compensation.

(3) The board of regents shall determine whether the participant's contribution is to be made by salary reduction

1 under section 403(b) of the Internal Revenue Code of 1954 or
2 by employer pick-up under section 414(h)(2) of that code.

3 (4) The disbursing officer of the employer or other
4 official designated by the board of regents shall pay both
5 the participant's contribution and the appropriate portion
6 of the regents' contribution to the designated company or
7 companies for the benefit of the participant.

8 (5) (a) The board of regents shall contribute the
9 amounts specified in subsection (5)(b) to the teachers'
10 retirement system to discharge the obligation incurred by
11 the employees of the Montana university system who elect or
12 who are required to become members of the optional
13 retirement plan. The contributions paid by the board are for
14 the past service liability incurred by active, inactive, and
15 retired members of the teachers' retirement system and must
16 be consistent with the requirements of 19-21-111.

17 (b) (i) Beginning July 1, 1993, through June 30, 1997,
18 the contributions to be made by the board of regents must
19 equal 2.503% of earned compensation attributable to optional
20 retirement participants.

21 (ii) Beginning July 1, 1997, the contribution rate must
22 be adjusted, pursuant to 19-4-201, based on the actual
23 experience of the members of the Montana university system
24 who are members of the teachers' retirement system, and must
25 be set at a rate sufficient to amortize the past service

1 liability of the university system members by July 1, 2033."

2 NEW SECTION. Section 5. Effective date. [This act] is
3 effective July 1, 1993.

-End-

1 *Sarah* BILL NO. *407*
 2 INTRODUCED BY *Fritz Long to Board of Regents*
 3 BY REQUEST OF THE BOARD OF REGENTS OF HIGHER *Leah*
 4 EDUCATION AND THE MONTANA TEACHERS' RETIREMENT BOARD *Holmes*

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 21 not to become members under the provisions of the law at
 22 that time are not required to be members:

23 (a) any person who is a teacher, principal, or district
 24 superintendent as defined in 20-1-101;

25 (b) any person who is an administrative officer or a

1 member of the instructional or scientific staff of:

2 (i) a vocational-technical center; or

3 (ii) a unit of the Montana university system and who has
 4 not elected or is not required to participate in the
 5 optional retirement program under Title 19, chapter 21;

6 (c) any person employed as a speech therapist, school
 7 nurse, or school psychologist or in an instructional
 8 services capacity by the office of the superintendent of
 9 public instruction, the office of a county superintendent, a
 10 special education cooperative, a public institution of the
 11 state of Montana, the Montana state school for the deaf and
 12 blind, or a school district;

13 (d) any person who is an administrative officer or a
 14 member of the instructional staff of the board of public
 15 education;

16 (e) any person who has elected not to become a member
 17 of the retirement system and is reentering service in a
 18 capacity prescribed by (a), (b), (c), or (d) of this

THERE ARE NO CHANGES IN THIS BILL
 AND WILL NOT BE REPRINTED. PLEASE
 REFER TO YELLOW COPY FOR COMPLETE TEXT.

SENATE BILL NO. 407

INTRODUCED BY FRITZ, FORRESTER, BIANCHI, MCCLERNAN,

REAM, NATHE, SCHYE, HARPER

BY REQUEST OF THE BOARD OF REGENTS OF HIGHER
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(a) any person who is a teacher, principal, or district
superintendent as defined in 20-1-101;

(b) any person who is an administrative officer or a
member of the instructional or scientific staff of:

(i) a vocational-technical center; or

(ii) a unit of the Montana university system and who has
not elected or is not required to participate in the
optional retirement program under Title 19, chapter 21;

(c) any person employed as a speech therapist, school
nurse, or school psychologist or in an instructional
services capacity by the office of the superintendent of
public instruction, the office of a county superintendent, a
special education cooperative, a public institution of the
state of Montana, the Montana state school for the deaf and
blind, or a school district;

(d) any person who is an administrative officer or a
member of the instructional staff of the board of public
education;

(e) any person who has elected not to become a member
of the retirement system and is reentering service in a
capacity prescribed by (a), (b), (c), or (d) of this
subsection (1);

(f) any person who has elected not to become a member
of the retirement system, who has been continuously employed
in a capacity prescribed by (a), (b), (c), or (d) of this
subsection (1) since the time of such the election, and who
may thereafter elect to become a member of the retirement

1 system.

2 (2) In order to be eligible for active membership, any
3 person described in subsection (1) must:

4 (a) be employed in the capacity prescribed for his the
5 person's eligibility for at least 30 days in any fiscal
6 year; and

7 (b) have the compensation for his the person's
8 creditable service totally paid by an employer ~~as-defined~~
9 herein.

10 (3) (a) A substitute teacher:

11 (i) may elect to become an active member of the
12 retirement system on the first day of employment in any
13 fiscal year; or

14 (ii) shall become an active member of the retirement
15 system on the 31st day of employment in any fiscal year if
16 he the substitute teacher has not elected membership under
17 subsection (3)(a)(i).

18 (b) The employer shall give written notification to a
19 substitute teacher on his the first day of employment in any
20 fiscal year of his the option to elect membership under
21 subsection (3)(a)(i).

22 (4) A substitute teacher who did not elect membership
23 under subsection (3)(a)(i) and subsequently becomes a member
24 must be awarded creditable service for his substitute
25 teaching service if he the substitute teacher contributes:

1 (a) an amount equal to the combined employee and
2 employer contributions that would have been made if he the
3 substitute teacher had elected membership; plus

4 (b) interest at the rate the contributions would have
5 earned if they had been on deposit with the retirement
6 system.

7 (5) At any time a person's eligibility to become a
8 member of the retirement system is in doubt, the retirement
9 board shall determine his the person's eligibility for
10 membership. All persons in similar circumstances shall be
11 treated alike."

12 **Section 2.** Section 19-21-111, MCA, is amended to read:

13 "19-21-111. Actuarial investigation to determine past
14 service liability compared to contributions required. (1)
15 The legislative auditor shall, using independent actuarial
16 assistance as necessary and in cooperation with the
17 teachers' retirement board and the board of regents,
18 determine the dollar value of past service liability of
19 active, inactive, and retired teachers' retirement system
20 members of the Montana university system as compared to
21 contributions required of the Montana university system on
22 behalf of teachers' retirement system members pursuant to
23 19-4-605. The legislative auditor shall report his any
24 findings to the 53rd legislature. The office of the
25 commissioner of higher education shall pay for the

determination, required by this section, of past service liability of teachers' retirement system members compared to contributions required of the Montana university system.

(2) If the valuation determines that the percentage contribution established in 19-21-203(2)(b)(5) has an adverse effect on the amortization of the unfunded liability, then the board of regents shall pay an additional sum over a period of 40 years to rectify the adverse effect.

(3) Changes in the teachers' retirement system occurring after July 1, 1987, that create additional unfunded liabilities may not be considered in the valuation, and the board of regents may not be required to pay any additional sum on that account except to the extent that those changes benefit members of the teachers' retirement system who are employees of the Montana university system.

(4) If the valuation determines that the board of regents is paying an amount in excess of that needed to amortize the unfunded liability, the teachers' retirement board shall credit the board of regents for the excess payments. The board of regents shall credit the active participants in the optional retirement program with the excess payments."

Section 3. Section 19-21-201, MCA, is amended to read:

"19-21-201. Participation in program. (1) Academic Except as provided in subsection (2), academic and

professional administrative personnel with individual contracts under the authority of the board of regents are eligible for and may elect to participate in the optional retirement program instead of the teachers' retirement system. This election must be exercised:

(a) before January 1, 1988, for an eligible person hired before July 1, 1987;

(b) within 90 days after entry into service or before January 1, 1988, whichever is later, for a person hired in an eligible position on or after July 1, 1987; and

(c) within 30 days after receiving written notice of eligibility or before January 1, 1988, whichever is later, for an employee who becomes eligible to participate in the optional retirement program by reason of appointment, promotion, transfer, or reclassification to an eligible position.

(2) (a) An eligible person hired on or after July 1, 1993, shall become a member of the optional retirement plan unless the person is, on the date hired, an active, inactive, or retired member of a public retirement system created in Title 19, chapter 3 or 4.

(b) A person hired who is a member of a public retirement system created in Title 19, chapter 3 or 4, shall elect to:

(i) remain with the retirement system of which the

person is a member on the date hired; or

(ii) become a member of the optional retirement plan.

(c) A person eligible to make an election under this subsection (2) shall exercise the election within 30 days of being hired.

(2)(3) The election must be exercised by filing a written notice with the teachers' retirement system and the disbursing officer of the employer. The election is effective as of the date the notice is filed or January 1, 1988, whichever is later.

(3)(4) If an eligible officer or staff member fails to exercise the election, as provided by this section, that person must remain or become a member of the teachers' retirement system.

(4)(5) An election under this section is not effective unless the notice filed with the disbursing officer of the employer is accompanied by an appropriate application, if one is required, for the issuance of a contract or contracts under the program."

Section 4. Section 19-21-203, MCA, is amended to read:

"19-21-203. Contributions. (1) Each optional retirement program participant shall contribute an amount equal to the member's contribution required under 19-4-602. The board of regents shall contribute an amount equal to the employer contribution required under 19-4-605.

(2) The board of regents' contribution must be apportioned and paid as follows:

(a) to the designated company or companies, an amount equal to the greater of:

(i) the employer's contribution to the teachers' retirement system not used to amortize past service unfunded liability as that unfunded liability is limited by 19-21-211; or

(ii) an amount that, when added to the participant's contribution, is equal to 10% 12% of the participant's earned compensation; and

(b) to the teachers' retirement system, the balance of the board of regents' contribution.

(2) (a) On or after July 1, 1997, the board of regents may:

(i) reduce the participant's contribution rate established in subsection (1) to an amount not less than 6% of the participant's earned compensation; and

(ii) increase the employer's contribution rate to an amount not greater than 6% of the participant's earned compensation.

(b) The sum of the participant's and employer's contributions made under subsection (2)(a) must remain at 12% of the participant's earned compensation.

(3) The board of regents shall determine whether the

participant's contribution is to be made by salary reduction under section 403(b) of the Internal Revenue Code of 1954 or by employer pick-up under section 414(h)(2) of that code.

(4) The disbursing officer of the employer or other official designated by the board of regents shall pay both the participant's contribution and the appropriate portion of the regents' contribution to the designated company or companies for the benefit of the participant.

(5) (a) The board of regents shall contribute the amounts specified in subsection (5)(b) to the teachers' retirement system to discharge the obligation incurred by the employees of the Montana university system who elect or who are required to become members of the optional retirement plan. The contributions paid by the board are for the past service liability incurred by active, inactive, and retired members of the teachers' retirement system and must be consistent with the requirements of 19-21-111.

(b) (i) Beginning July 1, 1993, through June 30, 1997, the contributions to be made by the board of regents must equal 2.503% of earned compensation attributable to optional retirement participants.

(ii) Beginning July 1, 1997, the contribution rate must be adjusted, pursuant to 19-4-201, based on the actual experience of the members of the Montana university system who are members of the teachers' retirement system, and must

be set at a rate sufficient to amortize the past service liability of the university system members by July 1, 2033."

NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 1993.

-End-