SENATE BILL NO. 287

INTRODUCED BY W. MCKAMEY, D. BEDEY, S. FITZPATRICK, B. LER

A BILL FOR AN ACT ENTITLED: “AN ACT GENERALLY REVISING STATE FINANCE LAWS; REVISING FUNDING ALLOCATIONS; PROVIDING FOR TRANSFERS; PROVIDING FOR INVESTMENT INCOME TO BE TRANSFERRED IN EQUAL AMOUNTS TO THE GENERAL FUND AND THE DEBT AND LIABILITY FREE ACCOUNT; PLACING A CAP ON THE DEBT AND LIABILITY FREE ACCOUNT; REVISING REPORTING REQUIREMENTS ON THE DEBT AND LIABILITY FREE ACCOUNT; PROVIDING FOR TRANSFERS FROM THE DEBT AND LIABILITY FREE ACCOUNT; PROVIDING FOR TRANSFERS FROM THE PENSION STATE SPECIAL REVENUE ACCOUNT TO THE TEACHERS' RETIREMENT SYSTEM OR THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM ON CERTIFICATION OF THE RETIREMENT SYSTEM BOARD; PROVIDING FOR AN INCREASE TO THE EMPLOYER SUPPLEMENTAL CONTRIBUTION RATE; PROVIDING FOR A FUND TRANSFER; ELIMINATING REPORTING REQUIREMENTS; AMENDING SECTIONS 17-6-202, 17-6-214, 17-7-134, 17-7-502, 19-3-316, AND 19-20-609, MCA; AMENDING SECTION 5, CHAPTER 48, LAWS OF 2023; AND PROVIDING ~~AN IMMEDIATE~~ EFFECTIVE ~~DATE~~ DATES.”

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

Section 1. Section 17-6-202, MCA, is amended to read:

"**17-6-202. Investment funds -- general provisions.** (1) For each treasury fund account into which state funds are segregated by the department of administration pursuant to 17-2-106, individual transactions and totals of all investments ~~shall~~ must be separately recorded to the extent directed by the department.

(2) However, the securities purchased and cash on hand for all treasury fund accounts not otherwise specifically designated by law or by the provisions of a gift, donation, grant, legacy, bequest, or devise from which the fund account originates to be invested ~~shall~~ must be pooled in an account to be designated "treasury cash account" and placed in one of the investment funds designated in 17-6-203. ~~Except for the fiscal year beginning July 1, 2022, through the fiscal year ending June 30, 2025, the share of the income for this account shall must be credited to the general fund. For the fiscal year beginning July 1, 2022, through~~

~~the fiscal year ending June 30, 2025, the share of the income for this account must be credited to the debt and liability free account established in 17-6-214.~~ Starting in the fiscal year beginning July 1, 2025, and for each subsequent fiscal year, 50% of the income for this account must be credited to the general fund, and 50% of the income ~~of~~ for the account must be credited to the ~~debt and liability free account established in 17-6-214~~ pension state special revenue account established in 17-7-134.

(3) If, within the list in 17-6-203 of separate investment funds, more than one investment fund is included ~~which~~ that may be held jointly with others under the same separate listing, all investments purchased for that separate investment fund ~~shall~~ must be held jointly for all the accounts participating ~~therein~~ in the separate investment fund, which ~~shall~~ must share all capital gains and losses and income pro rata."

Section 2. Section 17-6-214, MCA, is amended to read:

"**17-6-214. Debt and liability free account -- rules for deposits ~~and transfers~~ -- purpose.** (1) There is an account in the state special revenue fund established by 17-2-102 known as the debt and liability free account.

(2) The purpose of the debt and liability free account is ~~to~~ as follows:

(a) to pay the principal, interest, premiums, and any costs or fees associated with redeeming outstanding bonds, notes, or other obligations that have been authorized and issued pursuant to the laws of Montana and that are currently subject to optional redemption;

(b) to pay the principal, interest, premiums, and any costs or fees associated with defeasing outstanding bonds, notes, or other obligations that have been authorized and issued pursuant to the laws of Montana that are not currently subject to optional redemption;

(c) to forego or reduce the amount of an issuance of general obligation bonds paid from the general fund authorized by the legislature but not yet issued by the board of examiners prior to using funds from the account established in 17-7-209 for the same purpose; ~~and~~ and

(d) to pay in whole or in part legally resolved nonpension financial liabilities of the state of Montana;

~~(e) to acquire, purchase, or invest in loans, bonds, or other indebtedness or obligations payable to the state or an authority, board, agency, or other body of the state; and~~

~~(f) to the extent not obligated for the uses outlined in subsections (2)(a) through (2)(e), to make transfers described in subsections (8) and (9).~~

(3) For the fiscal year beginning July 1, ~~2022, through the fiscal year ending June 30,~~ ~~2025~~ 2022, through the fiscal year ending June 30, 2025, ~~and for each subsequent fiscal year, 50% of the~~ interest income received pursuant to 17-6-202(2) is deposited ~~into~~ in the account.

(4) Funds in the debt and liability free account are statutorily appropriated, as provided in 17-7-502, to the governor's office of budget and program planning and must be used in accordance with the requirements of this section.

(5) Funds expended from the account in this section may not be included in the calculation of annual transfers in 17-7-208.

(6) The office of budget and program planning shall prioritize the use of funds for the uses outlined in subsections (~~1)(a) through (1)(c)~~ (2)(a) through (2)(c).

(7) Within 15 days of the close of each fiscal ~~quarter~~ year, the office of budget and program planning shall submit a written report to the legislative finance committee in accordance with 5-11-210 that identifies the amount and the type of debt payoff or other expenditure from the account established in this section for the previous fiscal quarter.

~~(8) Unobligated balances in the account in excess of $150 million at the end of the second fiscal year of a biennium must be transferred to the account provided for in 17-7-134 by August 15 following the fiscal yearend of the second year of the biennium.~~

~~(9) If a transfer is made pursuant to 17-7-134(8) or 17-7-134(9), the state treasurer shall transfer from the unobligated balance of this account to the pension state special revenue account provided for in 17-7-134 the amount necessary to increase the fund balance of the pension state special revenue account to $300 million.~~"

Section 3. Section 17-7-134, MCA, is amended to read:

"**17-7-134. Pension state special revenue account.** (1) There is a pension state special revenue account to the credit of the department of administration.

(2) The account is funded by a distribution pursuant to 17-7-130~~, 17-6-214,~~ and by legislative

transfer.

(3) Funds in the account may only be used to transfer into:

(a) a state-administered pension fund;

(b) the budget stabilization reserve fund provided for in 17-7-130; or

(c) the fire suppression account provided for in 76-13-150~~; or~~

~~(d) the capital developments long-range building program account provided for in 17-7-209~~.

(4) The fund is subject to legislative transfer.

(5) Interest earned must be retained in the account and must be subject to appropriation by the legislature.

(6) The balance in excess of $300 million is subject to appropriation by the legislature only for the purposes outlined in 19-3-316, 19-20-609, and this section.

(7) The principal of the fund below $300 million is subject to appropriation only by a vote of two-thirds of the members of each house of the legislature.

(8) (a) On certification by the teachers' retirement board, the state treasurer shall transfer no more than 25% of the balance of this account to the teachers' retirement system to ensure that the system meets its long-term rate of return assumption if the inception-to-date market rate of return as of June 30 in the previous two consecutive fiscal years is less than the current actuarially assumed rate of return set by the teachers' retirement board.

(b) The amount of a transfer authorized in subsection (8)(a) is limited to the amount necessary to bring the inception-to-date market rate of return as of June 30 in the previous fiscal year up to the actuarially assumed rate of return set by the teachers' retirement board.

(c) When applicable, the teachers' retirement board shall determine and shall certify to the state treasurer the amount of the transfer required under this section. The state treasurer shall transfer the certified amount to the pension trust fund within 30 days following receipt of certification from the teachers' retirement board.

(9) (a) On certification by the public employees' retirement board, the state treasurer shall transfer no more than 25% of the balance of this account to the public employees' retirement system to ensure that the system meets its long-term rate of return assumption if the inception-to-date market rate of return as of June 30

in the previous two consecutive fiscal years is less than the current actuarially assumed rate of return set by the public employees' retirement board.

(b) The amount of a transfer authorized in subsection (9)(a) is limited to the amount necessary to bring the inception-to-date market rate of return as of June 30 in the previous fiscal year up to the actuarially assumed rate of return set by the public employees' retirement board.

(c) When applicable, the public employees' retirement board shall determine and shall certify to the state treasurer the amount of the transfer required under this section. The state treasurer shall transfer the certified amount to the pension trust fund within 30 days following receipt of certification from the public employees' retirement board."

Section 4. Section 17-7-502, MCA, is amended to read:

"**17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-316; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121; 15-1-142; 15-1-143; 15-1-218; 15-1-2302; 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-128; 15-70-131; 15-70-132; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; ~~17-6-214;~~ 17-7-133; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-3-369; 20-7-1709; 20-8-107; 20-9-250; 20-9-534; 20-9-622; [20-15-328]; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; [22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-

204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-4-1506; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-2-203; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and any costs or fees associated with issuing, paying, securing, redeeming, or defeasing all bonds, notes, or other obligations, as due in the ordinary course or when earlier called for redemption or defeased, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029; pursuant to secs. 1, 2, 3, Ch. 139, L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30, 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; pursuant to sec. 1, Ch. 20, L. 2023, sec. 2, Ch. 20, L. 2023, and sec. 3, Ch. 20, L. 2023, the inclusion of 81-1-112, 81-1-

113, and 81-7-106 terminates June 30, 2029; pursuant to sec. 9, Ch. 44, L. 2023, the inclusion of 15-1-142 terminates December 31, 2025; pursuant to sec. 10, Ch. 47, L. 2023, the inclusion of 15-1-2302 terminates June 30, 2025; pursuant to sec. 2, Ch. 374, L. 2023, the inclusion of 10-3-802 terminates June 30, 2031; pursuant to sec. 12, Ch. 558, L. 2023, the inclusion of 20-9-250 terminates December 31, 2029; pursuant to sec. 4, Ch. 621, L. 2023, the inclusion of 22-1-327 terminates July 1, 2029; pursuant to sec. 24, Ch. 722, L. 2023, the inclusion of 17-7-133 terminates June 30, 2027; pursuant to sec. 10, Ch. 758, L. 2023, the inclusion of 44-4-1506 terminates June 30, 2027; and pursuant to sec. 10, Ch. 764, L. 2023, the inclusion of 15-1-143 terminates December 31, 2025.)"

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

"**19-3-316. Employer contribution rates.** (1) Each employer shall contribute to the system. Except as provided in subsection (2), the employer shall pay as employer contributions 6.9% 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. Of employer contributions made under this subsection for both defined benefit plan and defined contribution plan members, a portion must be allocated for educational programs as provided in 19-3-112. Employer contributions for members under the defined contribution plan must be allocated as provided in 19-3-2117.

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

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

(b) ~~The percentage of compensation to be contributed under subsection (3)(a) is 1.27% for fiscal year 2014 and increases by 0.1% each fiscal year through fiscal year 2024.~~ For fiscal years beginning after June 30, ~~2024~~ ~~2025~~ 2024, the percentage of compensation to be contributed under subsection (3)(a) is 2.27%. For fiscal years beginning after June 30, 2027, there is a ~~0.2%~~ 0.1% increase each fiscal year through the fiscal year ending June 30, ~~2037~~ 2047. For fiscal years beginning after June 30, ~~2037~~ 2047, the percentage of compensation to be contributed under subsection (3)(a) is 4.27%.

(4) (a) The board shall annually review the additional employer contribution 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 contribution required under subsection (3) terminates on January 1 following the board's receipt of the system's actuarial valuation if the actuarial valuation determines that terminating the additional employer contribution pursuant to this subsection (4)(b) and reducing the employee contribution pursuant to 19-3-315(2) would not cause the amortization period to exceed 25 years."

Section 6. Section 19-20-609, MCA, is amended to read:

"**19-20-609. Employer's supplemental contribution -- actuarially determined adjustments.** (1) (a) Subject to subsections (1)(b) through (1)(d), each employer shall contribute to the retirement system a supplemental amount equal to the percentage specified in subsection (1)(b) of total earned compensation of each member employed during the whole or part of the preceding payroll period.

(b) ~~The percentage of compensation to be contributed under subsection (1)(a) is 1% for fiscal year 2014 and increases by 0.1% each fiscal year through fiscal year 2024.~~ For fiscal years beginning ~~after June 30, 2024~~ ~~July 1, 2025, through July 1, 2027~~ AFTER JUNE 30, 2024, the percentage of compensation to be contributed under subsection (1)(a) is 2%. For fiscal years beginning after June 30, 2027, there is a ~~0.2%~~ 0.1% increase each fiscal year through the fiscal year ending June 30, ~~2037~~ 2047. For fiscal years beginning after June 30, ~~2037~~ 2047, the percentage of compensation to be contributed under subsection (1)(a) is 4%.

(c) The board may decrease the employer's supplemental contribution if:

(i) the average funded ratio of the system based on the last three actuarial valuations is equal to or greater than 90%;

(ii) the period necessary to amortize all liabilities of the system based on the most recent annual actuarial valuation is less than 15 years; and

(iii) the guaranteed annual benefit adjustment has been increased to the maximum allowed under 19-20-719.

(d) Following one or more decreases in the supplemental contribution rate pursuant to subsection (1)(c), the board may increase the supplemental contribution to a rate not to exceed 1% if:

(i) the average funded ratio of the system based on the last three annual actuarial valuations is equal to or less than 80%; and

(ii) the period necessary to amortize all liabilities of the system based on the most recent annual actuarial valuation is greater than 20 years.

(2) After the board has actuarially determined the need to impose, increase, or decrease a supplemental contribution rate under this section, the imposition, increase, or decrease is effective on the first day of July following the board's determination."

NEW SECTION. **Section 7. Repealer.** The following sections of the Montana Code Annotated are repealed:

17-6-214. Debt and liability free account -- rules for deposits and transfers -- purpose.

NEW SECTION. **Section 8. Transfer of funds.** (1) By June 30, 2025, the state treasurer shall transfer $300 million from the general fund to the account provided for in 17-7-134.

(2) By June 30, 2025, the state treasurer shall transfer $145 million from the debt and liability free account established in 17-6-214 to the coal severance tax permanent fund established in 17-5-703 pursuant to Article IX, section 5, of the Montana constitution.

Section 9. Section 5, Chapter 48, Laws of 2023, is amended to read:

"**Section 5. Transfer of funds.** (1) By June 30, 2023, the state treasurer shall transfer $125 million from the general fund to the account provided for in [section 1].

(2) By June 30, 2023, the state treasurer shall transfer $18.6 million from the general fund to the statewide public safety communications system account provided for in 44-4-1607.

~~(3) By June 30, 2027, the state treasurer shall transfer any unobligated funds in the account established in [section 1] as follows:~~

~~(a) 50% to the capital developments long-range building program account established in 17-7-209; and~~

~~(b) 50% to the general fund.~~"

COORDINATION SECTION. **Section 10. Coordination instruction.** (1) If either Senate Bill No. 56 or House Bill No. 924, or both, and [this act] are passed and approved, and if either or both and [this act] contain a section that amends 19-3-316, then the sections amending 19-3-316 in Senate Bill No. 56 and House Bill No. 924 are void.

(2) If House Bill No. 924 and [this act] are passed and approved, and if both contain a section that amends 19-20-609, then the section amending 19-20-609 in House Bill No. 924 is void.

NEW SECTION. **Section 11. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Sections 4 and 7] are effective June 30, 2027.

~~NEW SECTION. **Section 12. Effective date.** [This act] is effective on passage and approval.~~

- END -