

HOUSE BILL NO. 67

INTRODUCED BY M. BERTOGLIO

BY REQUEST OF THE TEACHERS' RETIREMENT BOARD

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ADMINISTRATIVE AND TAX QUALIFICATION PROVISIONS OF THE TEACHERS' RETIREMENT SYSTEM; CLARIFYING THE REPORTING DUTIES OF EMPLOYERS; CLARIFYING ELECTIVE MEMBERSHIP DEFERRAL FOR CERTAIN POSITIONS; CLARIFYING ACTIVE MEMBERSHIP AND DORMANT MEMBER STATUS; CLARIFYING THE PURCHASE OF DEFERRED ELECTIVE SERVICE; REVISING MANDATORY DISTRIBUTION PROVISIONS TO CONFORM WITH FEDERAL LAW; CLARIFYING DISABILITY RETIREMENT ALLOWANCE CALCULATIONS; PROVIDING DEFINITIONS; AMENDING SECTIONS 19-20-101, 19-20-208, 19-20-302, 19-20-303, 19-20-417, 19-20-703, AND 19-20-905, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 19-20-101, MCA, is amended to read:

**"19-20-101. Definitions.** As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Accumulated contributions" or "account balance" means the sum of all the amounts deducted from the compensation of a member or paid by a member and credited to the member's individual account in the annuity savings account, together with interest, minus any amount deducted for correction of errors and the aggregate amount of all retirement benefit payments and refunds of accumulated contributions paid to or on behalf of the member.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality table and interest rate assumption set by the retirement board.

(3) "Alternate beneficiary" means an estate or an individual not designated as a beneficiary but that becomes a beneficiary pursuant to 19-20-1005.

1           (4)     "Average final compensation" means a member's highest average earned compensation,  
2 determined pursuant to 19-20-805, on which all required contributions have been made.

3           (5)     "Beneficiary designation" means the process that the retirement system prescribes pursuant to  
4 this chapter by which a person authorized by law designates one or more beneficiaries.

5           (6)     "Beneficiary designation record" means either the hard copy form or electronic record  
6 prescribed by the retirement system and used by a person authorized by law to designate one or more  
7 beneficiaries.

8           (7)     "Benefit recipient" means a retired member, a joint annuitant, or a beneficiary who is receiving  
9 a retirement allowance.

10          (8)     "Contingent beneficiary" means a designated beneficiary with the right to receive any benefit or  
11 refund of accumulated contributions payable if there is no eligible primary beneficiary.

12          (9)     "Creditable service" is that service defined by 19-20-401.

13          (10)    "Date of termination" or "termination date" means the last date on which a member performed  
14 service in a position reportable to the retirement system.

15          (11)    "Designated beneficiary" means one or more primary beneficiaries or contingent beneficiaries  
16 designated pursuant to 19-20-1006.

17          (12)    (a) "Earned compensation" means, except as limited by subsections (12)(b) and (12)(c) or by  
18 19-20-715, remuneration paid for the service of a member out of funds controlled by an employer before any  
19 pretax deductions allowed under the Internal Revenue Code are deducted.

20          (b)     Earned compensation does not include:

21           (i)     direct employer premium payments on behalf of members for medical, pharmaceutical,  
22 disability, life, vision, dental, or any other insurance;

23           (ii)    any direct employer payment or reimbursement for:

24           (A)     professional membership dues;

25           (B)     maintenance;

26           (C)     housing;

27           (D)     day care;

28           (E)     automobile, travel, lodging, or entertaining expenses; or

- 1 (F) any similar form of maintenance, allowance, or expenses;
- 2 (iii) the imputed value of health, life, or disability insurance or any other fringe benefits;
- 3 (iv) any noncash benefit provided by an employer to or on behalf of a member;
- 4 (v) termination pay unless included pursuant to 19-20-716;
- 5 (vi) compensation paid to a member from a plan for the deferral of compensation under section
- 6 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f);
- 7 (vii) payment for sick, annual, or other types of leave paid to a member prior to termination from
- 8 employment or accrued in excess of that normally allowed;
- 9 (viii) incentive or bonus payments paid to a member that are not part of a series of annual
- 10 payments;
- 11 (ix) a professional stipend paid pursuant to 20-4-134; or
- 12 (x) any similar payment or reimbursement made to or on behalf of a member by an employer; or
- 13 (c) (i) Adding a direct employer-paid or noncash benefit to an employee's contract or subtracting
- 14 the same or a similar amount as a pretax deduction is considered a fringe benefit and not earned
- 15 compensation.
- 16 (ii) Cash paid in lieu of any direct employer-paid or noncash benefit that has previously been or
- 17 would be paid or provided to or on behalf of the employee at the employee's request or direction is considered
- 18 a fringe benefit and not earned compensation.
- 19 (13) "Employer" means:
- 20 (a) the state of Montana;
- 21 (b) a public school district, as provided in 20-6-101 and 20-6-701;
- 22 (c) the office of public instruction;
- 23 (d) the board of public education;
- 24 (e) an education cooperative;
- 25 (f) the Montana school for the deaf and blind, as described in 20-8-101;
- 26 (g) the Montana youth challenge program, as defined in 10-1-101;
- 27 (h) a correctional facility, as defined in 41-5-103;
- 28 (i) the Montana university system;

1 (j) a community college; or

2 (k) any other agency, political subdivision, or instrumentality of the state that employs a person  
3 who is designated a member of the retirement system pursuant to 19-20-302.

4 (14) "Extra duty service" means:

5 (a) service in an educational services capacity that is not compensated as part of the normally  
6 assigned duties and functions of a school district teacher, administrator, or other employee but is regularly  
7 assigned to one or more school district teachers, administrators, or other employees as part of the regular  
8 operation of the school district's curricular, cocurricular, and or extracurricular programs; or

9 (b) service not in an educational services capacity that is regularly assigned to a school district  
10 teacher, teacher's aide, paraprofessional, or administrator for the purposes of student supervision during school  
11 functions that are not part of the school district's regular curricular, cocurricular, or extracurricular programs.

12 (c) For the purposes of this subsection (14), "educational services capacity" has the same  
13 meaning as provided in 19-20-302(10).

14 (15) "Full-time service" means service that is:

15 (a) at least 180 days in a fiscal year;

16 (b) at least 140 hours a month during at least 9 months in a fiscal year; or

17 (c) at least 1,080 hours in a fiscal year under an alternative school calendar adopted by a school  
18 board and reported to the office of public instruction as required by 20-1-302. The standard for full-time service  
19 for a school district operating under an alternative school calendar must be applied uniformly to all employees  
20 of the school district required to be reported to the retirement system.

21 (16) "Individual" means a human being.

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

23 (18) "Joint annuitant" means the one person that a retired member who has elected an optional  
24 allowance under 19-20-702(2), (4), or (5) has designated to receive a retirement allowance upon the death of  
25 the retired member.

26 (19) "Member" means a person who has an individual account in the annuity savings account.

27 Unless otherwise specified, "member" refers to a tier one member or a tier two member.

28 (20) "Normal form" or "normal form benefit" means a monthly retirement benefit payable only for the

1 lifetime of the retired member.

2 (21) "Normal retirement age" means an age no earlier than 60 years of age.

3 (22) "Part-time service" means service that is not full-time service. Part-time service must be  
4 credited in the proportion that the actual time worked compares to full-time service.

5 (23) "Position reportable to the retirement system" means a position in which an individual performs  
6 duties that would entitle the person to active membership in the retirement system under the provisions of 19-  
7 20-302.

8 (24) "Primary beneficiary" means a designated beneficiary with a first right to receive any benefit or  
9 refund of accumulated contributions payable upon the death of the individual authorized by law to make the  
10 designation.

11 (25) "Regular interest" means interest at a rate set by the retirement board in accordance with 19-  
12 20-501(2).

13 (26) "Retired", "retired member", or "retiree" means a person who is considered in retired member  
14 status under the provisions of 19-20-810.

15 (27) "Retirement allowance" or "retirement benefit" means a monthly payment due to a retired  
16 member who has qualified for service or disability retirement or due to a joint annuitant or beneficiary.

17 (28) "Retirement board" or "board" means the retirement system's governing board provided for in  
18 2-15-1010.

19 (29) "Retirement system", "system", or "plan" means the teachers' retirement system of the state of  
20 Montana provided for in 19-20-102.

21 (30) "Service" means the performance of duties that would entitle the person to active membership  
22 in the retirement system under the provisions of 19-20-302.

23 (31) "Termination" or "terminate" means that the employment relationship between the member and  
24 the member's employer has been terminated as required in 19-20-810.

25 (32) (a) "Termination pay" means any form of bona fide vacation leave, sick leave, severance pay,  
26 amounts provided under a window or early retirement incentive plan, or other payments contingent on the  
27 employee terminating employment.

28 (b) Termination pay does not include:

1 (i) amounts that are not wages under section 3121 of the Internal Revenue Code, determined  
2 without regard to the wage base limitation; and

3 (ii) amounts that are payable to a member from a plan for the deferral of compensation under  
4 section 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f).

5 (33) "Tier one member" means a person who became a member before July 1, 2013, and who has  
6 not withdrawn the member's account balance.

7 (34) "Tier two member" means a person who became a member on or after July 1, 2013, or who,  
8 after withdrawing the member's account balance, became a member again after July 1, 2013.

9 (35) "Vested" means that a member has been credited with at least 5 full years of membership  
10 service upon which contributions have been made and has a right to a future retirement benefit.

11 (36) "Written application" or "written election" means a written instrument, required by statute or the  
12 rules of the board, properly signed and filed with the board, that contains all the required information, including  
13 documentation that the board considers necessary."  
14

15 **Section 2.** Section 19-20-208, MCA, is amended to read:

16 **"19-20-208. Duties and liability of employer.** (1) Each employer shall:

17 (a) (i) each month, report the name, social security number, time worked, and gross earnings of  
18 each employed member; and

19 (ii) pick up the contributions of each employed member at the rate prescribed pursuant to 19-20-  
20 602 and 19-20-608 and transmit the contributions to the executive director of the retirement board;

21 (b) transmit to the retirement system the employer's contributions prescribed by 19-20-605 and 19-  
22 20-609 at the time that the employee contributions are transmitted;

23 (c) keep records and, as required by the retirement system, furnish information that is required in  
24 the discharge of the retirement system's duties, including financial, personal services, or other information or  
25 documentation requested by the retirement system to verify proper retirement system reporting and contribution  
26 remittance related to any individual hired by, working for, or paid by the employer, whether as a common law  
27 employee, an independent contractor, an employee or contractor of a third party, a volunteer, or in any other  
28 capacity;

1 (d) on the employment of a person who is required to become a member of the retirement system,  
2 inform the person of the rights and obligations relating to the retirement system;

3 (e) each month, report the name, social security number, time worked, and gross earnings of each  
4 retired member of the system who has been employed in a position that is reportable to the retirement system  
5 pursuant to 19-20-731;

6 (f) whenever applicable, inform an employee of the right to elect to participate in the university  
7 system retirement program under Title 19, chapter 21; and

8 (g) at the request of the retirement system, certify the names of all persons who are eligible for  
9 membership or who are members of the retirement system; and

10 (h) each month, report the name, social security number, time worked, and gross earnings of each  
11 substitute teacher, teacher's aide, and paraprofessional who, pursuant to 19-20-302(4), has elected not to  
12 participate in the retirement system prior to completing 210 hours of employment in any fiscal year.

13 (2) An employer shall submit a wage and contribution report to the retirement system every month,  
14 including for any month in which the employer does not pay compensation reportable to the retirement system."

15

16 **Section 3.** Section 19-20-302, MCA, is amended to read:

17 **"19-20-302. Active membership.** (1) Unless otherwise provided by this chapter, the following  
18 persons employed by an employer must be active members of the retirement system:

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

20 (b) a person who is an administrative officer or a member of the instructional or scientific staff of a  
21 unit of the Montana university system and who has not elected or is not required to participate in the university  
22 system retirement program under Title 19, chapter 21;

23 (c) a person employed as a speech-language pathologist, school nurse, professionally qualified  
24 person as defined in 20-7-901, paraprofessional who provides instructional support, dean of students, or school  
25 psychologist;

26 (d) a person employed in a teaching or an educational services capacity by the office of a county  
27 superintendent, an education cooperative, a public institution of the state of Montana, the Montana state school  
28 for the deaf and blind, or a school district;

1 (e) a person who is an administrative officer or a member of the instructional staff of the board of  
2 public education;

3 (f) the superintendent of public instruction or a person employed as a teacher or in an educational  
4 services capacity by the office of public instruction;

5 (g) except as provided in subsection (2), a person elected to the office of county superintendent of  
6 schools;

7 (h) a person who is an administrative officer or a member of the instructional or scientific staff of a  
8 community college; and

9 (i) a person employed in a nonclerical position and who is reported on an employer's annual data  
10 collection report submitted to the office of public instruction.

11 (2) A retired member elected to the office of county superintendent of schools or appointed to  
12 complete the term of an elected county superintendent of schools after July 1, 1995, is not eligible for optional  
13 membership in the public employees' retirement system under the provisions of 19-3-412 or 19-3-413 and shall,  
14 within 30 days of taking office, file an irrevocable written election to become or to not become an active member  
15 of the teachers' retirement system. The retirement system membership of an elected county superintendent of  
16 schools as of June 30, 1995, must remain unchanged for as long as the person continues to serve in the  
17 capacity of county superintendent of schools.

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

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

21 (b) have the compensation for the person's creditable service totally paid by an employer.

22 (4) (a) A substitute teacher, or a part-time teacher's aide, or paraprofessional who is not already  
23 an active, inactive, or retired member of the retirement system shall make an irrevocable written election to  
24 become an active member of the retirement system on the first day of employment or to defer membership in  
25 the retirement system until the individual has completed 210 hours of service in any fiscal year.

26 (i) ~~shall file an irrevocable written election determining whether to become an active member of~~  
27 ~~the retirement system on the first day of employment; or~~

28 (ii) ~~is required to become an active member of the retirement system after completing 210 hours of~~



1 employment in any fiscal year if the substitute teacher or part-time teacher's aide has not elected membership  
2 under subsection (4)(a)(i).

3 (b) ~~Once a part-time teacher's aide becomes a member, the aide is required to remain an active~~  
4 ~~member as long as the aide is employed in that capacity. Once a substitute teacher becomes a member, the~~  
5 ~~substitute teacher is required to remain a member as long as the teacher is available for employment in that~~  
6 ~~capacity.~~ Upon completing 210 hours of service in a fiscal year for one employer or in aggregate for two or more  
7 employers, the individual shall become an active member of the retirement system. Active membership is  
8 effective the first day of the month following the month in which aggregate service reported by all employers  
9 equals or exceeds 210 hours. After a substitute teacher, part-time teacher's aide, or paraprofessional becomes  
10 a member, the individual shall remain an active or inactive member until the individual meets the requirements  
11 to withdraw from the retirement system or become a retired member.

12 (c) ~~The employer shall give written notification to a substitute teacher or part-time teacher's aide~~  
13 ~~on the first day of employment of the option to elect membership under subsection (4)(a)(i).~~ An employer shall  
14 provide an election form to an eligible substitute teacher, part-time teacher's aide, or paraprofessional on the  
15 first day of employment. The employer shall require submission of the election form back to the employer and  
16 shall maintain the election form permanently.

17 (d) ~~— If a substitute teacher or part-time teacher's aide declines to elect membership during the~~  
18 ~~election period, the teacher or part-time teacher's aide shall file a written statement with the employer waiving~~  
19 ~~membership and the employer shall retain the statement.~~

20 (5) A school district clerk or business official may not become a member of the teachers'  
21 retirement system. A school district clerk or business official who is a member of the system on July 1, 2001, is  
22 required to remain an active member of the system while employed in that capacity, and any postretirement  
23 earnings from employment as a school district clerk or school business official are subject to the limit on  
24 earnings provided in 19-20-731.

25 (6) At any time that a person's eligibility to become a member of the retirement system is in doubt,  
26 the retirement board shall determine the person's eligibility for membership. All persons in similar  
27 circumstances must be treated alike.

28 (7) As used in this section, "part-time teacher's aide" or "paraprofessional" means an individual

1 who works less than 7 hours a day assisting a certified teacher in a classroom.

2 (8) (a) An active member of the system concurrently employed in a position identified in subsection  
3 (1)(b) may not elect to participate in the university system retirement program under Title 19, chapter 21.

4 (b) An employee of the Montana university system who is a participant in the university system  
5 retirement program under Title 19, chapter 21, and who is concurrently employed in a position identified in  
6 ~~subsections subsection~~ subsection (1)(a) or ~~subsections~~ (1)(c) through (1)(i) is ineligible to be an active member of ~~this the~~  
7 teachers' retirement system.

8 (9) (a) A position is not reportable to the retirement system if the position is a bona fide volunteer  
9 position.

10 (b) A position is a bona fide volunteer position if all of the following criteria are met:

11 (i) The individual in the position receives no salary, stipend, remuneration of any kind,  
12 reimbursement of expenses, or in-kind benefits or services for service in the position. Employer payments of  
13 premiums for required insurance coverage directly related to the volunteer service, such as workers'  
14 compensation coverage or personal or professional liability coverage, do not constitute remuneration.

15 (ii) The position was not a paid position with the employer within the 12 months prior to being  
16 designated as a volunteer position by the employer.

17 (iii) The position does not become a paid position for at least 12 months following the employer's  
18 designation of the position as a volunteer position.

19 (iv) The employer does not have any other individual working as a paid employee in the same  
20 position while the position is designated as a volunteer position.

21 (v) The individual in the position does not perform work in the volunteer position in excess of:

22 (A) 4 hours in a day, 12 hours in a week, and 312 hours in a fiscal year if the service is performed  
23 during regular business days of the employer; or

24 (B) 312 hours in a fiscal year if the service is performed primarily at times other than during regular  
25 business days of the employer.

26 (c) The retirement system may require the employer to provide information and documentation to  
27 verify that a position designated as a volunteer position meets all requirements set forth in this subsection (9).

28 (10) As used in this section, "educational services capacity" refers to an individual who:

1 (a) directly instructs students;

2 (b) provides professional or education-related services that help students participate in or receive  
3 the full benefit of an educational program;

4 (c) evaluates the competencies or proper placement of students, determines or implements  
5 student-specific educational programs or plans, or provides direct or indirect support for academic or behavior  
6 intervention;

7 (d) determines the proper curriculum or educational standards applicable to the program,  
8 determines the appropriate educational and instructional methodologies, selects or creates the instructional  
9 materials; or trains teachers or other staff responsible for implementing the curriculum, standards, and  
10 methodologies of the program;

11 (e) directs, supervises, or oversees the work of other individuals employed in an educational or  
12 instructional services capacity; or

13 (f) is the primary administrator of an employer that provides educational services or is the primary  
14 administrator of an educational program of an employer that provides educational services."

15

16 **Section 4.** Section 19-20-303, MCA, is amended to read:

17 **"19-20-303. Inactive membership -- dormant membership status.** (1) A nonvested or vested  
18 member's active membership in the retirement system terminates and the member becomes an inactive  
19 member when the member ceases to be employed in a position reportable to the retirement system.

20 (2) A vested member becomes an inactive member of the teachers' retirement system if the  
21 member becomes an active member of another retirement or pension system supported wholly or in part by the  
22 money of another government agency, except the federal social security retirement system, and the  
23 membership in the other retirement system would allow credit for the same employment service in both  
24 retirement systems. However, the member may not be excluded from active membership in the teachers'  
25 retirement system solely because the person is receiving or is eligible to receive retirement benefits from  
26 another retirement system.

27 (3) A vested inactive member must be transferred to dormant membership status if, by the  
28 member's required minimum distribution beginning date, the member cannot be located for involuntary

1 ~~retirement as described in 19-20-703(3) or has not taken one of the following actions~~ the member fails to take  
2 ~~one of the following actions by April 1 following the calendar year in which the member attains the age of 70 1/2~~  
3 ~~if the member was born before July 1, 1949, or the age of 72 if the member was born on or after July 1, 1949:~~

4 (a) elect to terminate membership by withdrawing from the retirement system and taking a refund  
5 of the member's accumulated contributions under 19-20-603;

6 (b) apply to receive retirement benefits under part 8 or part 9 of this chapter; or

7 (c) return to active membership.

8 (4) A nonvested inactive member must be transferred to dormant membership status if the  
9 member fails to take one of the following actions within 7 years after becoming an inactive member:

10 (a) elect to terminate membership by withdrawing from the retirement system and taking a refund  
11 of the member's accumulated contributions under 19-20-603; or

12 (b) return to active membership.

13 (5) With respect to a member in dormant membership status:

14 (a) the retirement system shall no longer attempt to locate or contact the member or send  
15 communications or annual statements to the member; and

16 (b) the retirement system shall transfer the amount in the member's annuity savings account to the  
17 pension accumulation account and the amount may not be credited with additional interest while the member is  
18 in a dormant membership status.

19 (6) If a vested inactive member in dormant membership status takes an action described in  
20 subsection (3), the member is no longer in dormant membership status and the retirement system shall restore  
21 the member's account balance ~~to the member's annuity savings account~~ and credit the account balance with  
22 the interest that would have been earned if the amount had remained in the annuity savings account member  
23 had not been transferred to dormant status.

24 (7) If a nonvested inactive member in dormant membership status takes an action described in  
25 subsection (4), the member is no longer in dormant membership status and the retirement system shall restore  
26 the member's account balance ~~to the member's annuity savings account~~ and credit the account balance with  
27 the interest that would have been earned if the amount had remained in the annuity savings account member  
28 had not been transferred to dormant status.

1 (8) Nothing in this section affects the rights, benefits, obligations, or liabilities provided for under  
2 this chapter if a member dies in a dormant membership status."

3

4 **Section 5.** Section 19-20-417, MCA, is amended to read:

5 **"19-20-417. Credit for substitute teaching service, part-time teacher's aide aide service,  
6 paraprofessional service, or other service not reported. (1) A substitute teacher or part-time teacher's aide  
7 who has filed an irrevocable election with their employer not to participate in the retirement system for the first  
8 210 hours of service under 19-20-302 and who subsequently becomes a member within the same fiscal year  
9 must be awarded creditable service for the first 210 hours of service if the member contributes the employee  
10 and employer contributions that would have been made if the member had been a member from the first date of  
11 service in that fiscal year, plus interest at the current actuarial assumed rate of investment return. (1) A  
12 substitute teacher, part-time teacher's aide, or paraprofessional who has filed an irrevocable election not to  
13 participate in the retirement system for the first 210 hours of service under 19-20-302 and who later becomes  
14 an active member may be awarded creditable service for the 210 or more hours of service provided in the  
15 single fiscal year in which the 210-hour threshold results in the individual's active membership. To be awarded  
16 the creditable service, the member shall contribute the regular employee and employer contributions that would  
17 have been made if the member had elected membership from the first date of service in that fiscal year, plus  
18 interest at the current actuarial assumed rate of investment return.**

19 (2) A person who was employed in a capacity that would have been eligible for membership  
20 except for the fact that the person was employed for less than 30 days and who subsequently becomes an  
21 active member within the same fiscal year may purchase the first 30 days of service if the member contributes  
22 the employee and employer contributions that would have been made if the person had been a member from  
23 the first date of service in that fiscal year, plus interest at the current actuarial assumed rate of investment  
24 return.

25 (3) If an employer fails to report a person who was eligible for membership under 19-20-302, the  
26 employee and employer shall make the contributions required by this chapter, plus interest at the current  
27 actuarial assumed rate of investment return.

28 (4) The contributions and interest may be made in a lump-sum payment or in installments as

1 agreed to between the person and the board.

2 (5) Only one service purchase may be made by any member under subsection (1) or (2)."

3

4 **Section 6.** Section 19-20-703, MCA, is amended to read:

5 **"19-20-703. Payments to be monthly -- required minimum distributions.** (1) All retirement  
6 allowances must be paid in equal monthly installments.

7 (2) Except as provided in subsection (5), the retirement allowance may commence:

8 (a) no earlier than the first day of the month following the member's termination date or on the first  
9 day of the month following the date when the member first becomes eligible, whichever date is later; or

10 (b) if requested by the inactive member in writing:

11 (i) on the first day of a later month; or

12 (ii) on the first day of the month following the member's 60th birthday.

13 (3) ~~Distribution of an inactive member's benefit must begin by the later of the April 1 following the  
14 calendar year in which a member attains the age of 70 1/2 if the member was born before July 1, 1949, or the  
15 age of 72 if the member was born on or after July 1, 1949, or April 1 of the year following the calendar year in  
16 which the member terminates. If a member fails to apply for retirement benefits by the later of either of those  
17 dates, the board shall begin distribution of the monthly benefit as provided in 19-20-702(3)(a)(i).~~

18 (3) (a) Distribution of an inactive member's benefit must begin, or a refund of the member's  
19 accumulated contributions must be made, by the required minimum distribution beginning date.

20 (b) The required minimum distribution beginning date is the later of:

21 (i) April 1 following the calendar year in which the member terminates employment in all teachers'  
22 retirement system reportable positions; or

23 (ii) April 1 following the calendar year in which the member attains the age of:

24 (A) 70 1/2 if the member was born before July 1, 1949;

25 (B) 72 if the member was born between July 1, 1949, and December 31, 1950;

26 (C) 73 if the member was born between January 1, 1951, and December 31, 1959; or

27 (D) 75 if the member was born on or after January 1, 1960.

28 (c) If the member fails to apply to receive retirement benefits by the required minimum distribution

1 beginning date, the retirement system shall begin distribution of the monthly benefit under the monthly benefit  
 2 option described in 19-20-702(3)(a)(i) without consideration of the member's age.

3 (4) The life expectancy of a member or the member's joint annuitant may not be recalculated after  
 4 benefits commence.

5 (5) If a member terminates within 30 days of the last day of the school year, the member is  
 6 considered to have terminated at the end of the member's contract, and the retirement allowance may not  
 7 commence earlier than the first day of the month following the last scheduled pupil-instruction day or pupil-  
 8 instruction-related day as described in 20-1-304, whichever is later."

9

10 **Section 7.** Section 19-20-905, MCA, is amended to read:

11 **"19-20-905. Cancellation of allowance and restoration of membership.** (1) If a disabled retiree is  
 12 employed in a position reportable to the retirement system and earns compensation in any calendar year in  
 13 excess of the limitation provided in 19-20-904, the retiree's retirement allowance must cease and the retiree  
 14 must again become an active member of the retirement system effective on the first day of the month following  
 15 the month in which the earnings limitation was exceeded. At this point, the member is deemed to be no longer  
 16 disabled.

17 ~~(2) If the member is restored to active membership on or after the attainment of the age of 55~~  
 18 ~~years, the member's retirement allowance upon subsequent retirement may not exceed the retirement~~  
 19 ~~allowance that the member would have received had the member remained in service during the period of the~~  
 20 ~~member's previous retirement or the sum of the retirement allowance that the member was receiving~~  
 21 ~~immediately prior to the member's last restoration to service and the retirement allowance that the member~~  
 22 ~~would have received on account of the member's service since the member's last restoration had the member~~  
 23 ~~entered service at that time as a new member~~

24 (2) (a) Upon subsequent termination of employment in all teachers' retirement system reportable  
 25 positions, a member who is then eligible based on age or service for either an early retirement allowance under  
 26 19-20-802 or a regular retirement allowance under 19-20-804 may immediately apply for a retirement  
 27 allowance. Eligibility for retirement based on service is determined based on the creditable service credited to  
 28 the member at the time of disability retirement excluding any creditable service enhancement applied pursuant

1 to 19-20-902(1)(b). The retirement allowance payable upon subsequent retirement is the lesser of:  
 2 (i) the early or regular service retirement allowance the member is eligible to receive based on the  
 3 creditable service and earned compensation credited to the member at the time of the member's disability  
 4 retirement excluding any creditable service or earned compensation enhancement applied as provided in 19-  
 5 20-902(1)(b), plus the additional creditable service and earned compensation credited to the member after the  
 6 return to active member status; or  
 7 (ii) an amount equal to the disability retirement benefit received prior to the return to active  
 8 member status plus a second benefit amount calculated based on the creditable service accrued and average  
 9 earned compensation credited for all years of service during the return to active member status.  
 10 (b) Upon subsequent termination of employment in all teachers' retirement system reportable  
 11 positions, a member who is not then eligible for an early or regular service retirement allowance under  
 12 subsection (2)(a) shall wait to apply for a subsequent retirement allowance until eligible under subsection (2)(a)  
 13 or may make a new application for a disability retirement allowance.  
 14 (c) A member who originally retired on a disability allowance and later returned to active member  
 15 status may not make, and the member's subsequent retirement allowance may not be enhanced by, any  
 16 permissive service purchase not used in the calculation of the member's original disability retirement  
 17 allowance."

18  
19 **NEW SECTION. Section 8. Effective date.** [This act] is effective July 1, 2025.

20 - END -