



2021 Legislative Update

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TRS Board Legislation

[HB 88](#)

Sponsor: Representative Marta Bertoglio (R) HD 75
Title: Generally Revise Laws on Administration of TRS
Effective: July 1, 2021
Current Status: **Passed Legislature and Signed by Governor Gianforte**
TRS Position: Proponent

HB 88 was introduced at the request of the Teachers' Retirement Board to clarify certain sections of current law, make technical corrections where necessary, and implement an IRS rule change regarding Required Minimum Distributions (RMDs).

Of note, this legislation:

- Clarified the definition of "earned compensation" in 19-20-101 to state that when an employee is allowed a choice to receive *cash in lieu of* a direct employer-paid or noncash benefit, the cash payment is not considered earned compensation
- Clarified employers' monthly reporting duties described in 19-20-208 and removed outdated language regarding membership applications
- Added language in 19-20-303 and 19-20-703 to implement an IRS rule that extends the required beginning date for RMDs from age 70 ½ to age 72 for *inactive* members born on or after July 1, 1949
- Corrected language in 19-20-905 to reflect that the annual earnings limitation is applied on a calendar year (not fiscal year) basis for disabled retirees who return to work in positions reportable to TRS

[SB 46](#)

Sponsor: Senator Ryan Lynch (D) SD 37
Title: Increase University System Supplemental Contribution to TRS
Effective: July 1, 2021
Current Status: *Failed to Pass Legislature*
TRS Position: Proponent

SB 46 was introduced at the request of the Teachers' Retirement Board to increase the MUS supplemental employer contribution rate to amortize the unfunded liability that was created when TRS was closed to all new hires. This legislation would have increased the supplemental contribution from 4.72% of MUS-RP participants' salaries to 13.9%, the rate currently necessary to amortize the university system's past service liability by July 1, 2033, as required by 19-20-721, MCA.

Other Legislation Not Requested by TRS

[HJ 8](#)

Sponsor: Representative Frank Garner (R) HD 7
Title: Provide for a Study of Pension Laws
Effective: Interim Study
Current Status: **Passed Legislature and Became Law**
TRS Position: Informational

This Joint Resolution of the House and Senate requires an interim study of the financial stability of Montana's defined benefit public retirement systems. The study also will review the governance of the systems; examine legislative education, oversight, and goals; and develop recommendations for a long-term strategic approach to setting contribution rates that will ensure the financial strength and resilience of the retirement systems.

[HB 323](#)

Sponsor: Representative Terry Moore (R) HD 54
Title: Generally Revise Pension Laws
Effective: June 30, 2021
Current Status: *Failed to Pass Legislature*
TRS Position: Informational

This legislation would have provided automatic employer contribution increases to pay off TRS's existing liability over a closed 29-year period and any new liability over a layered 10-year period. The bill also would have required any future actuarial losses resulting from assumption changes or market downturns to be funded in no more than 10 years, a provision that could have caused employer contribution rates to fluctuate substantially from one year to the next.

[HB 683](#)

Sponsor: Representative Bill Mercer (R) HD 46
Title: Distribute Recreational Marijuana Revenue to Unfunded Pension Liability
Effective: October 1, 2021
Current Status: *Failed to Pass Legislature*
TRS Position: Proponent

This legislation would have helped to pay down the retirement system's unfunded liabilities by transferring 43.35% of the balance in the marijuana compensation account to the Teachers' Retirement System each month. Projections indicated this would have provided \$3.7M of additional funding to TRS in FY 2022, \$14.6M in FY 2023, \$19.9M in FY 2024, and \$22.7M in FY 2025. The revenue stream was expected to increase by 5% each year for fiscal years 2026 to 2031 and 2.5% each year for FY 2031 and beyond. HB 683 would have improved the funded status of TRS and decrease the amortization period of the system by approximately six years.

SB 188

Sponsor: Senator Mike Lang (R) SD 17
Title: Revise Retiree Return-to-Work Provisions
Effective: Upon Passage and Approval
Current Status: *Failed to Pass Legislature*
TRS Position: Opponent

SB 188 would have further expanded 19-20-732, MCA, a provision that currently allows Class 2 and Class 3 school districts to employ, on a temporary/emergency hiring basis, certain retired TRS members with no restriction on the amount they may earn while continuing to receive their full TRS retirement benefit.

This legislation would have: (1) reinserted School Superintendent as a position eligible to work under this provision for up to 3 years in their lifetime; (2) increased the length of time a retired teacher or specialist could work under this provision from 3 years to 5 years in their lifetime; and (3) extended the sunset date of this provision to June 30, 2026.

TRS opposed this bill because it would have diluted the original intent of this provision, which was to allow school districts to fill vacant positions with retired members only as a last resort in emergency hiring situations, and because the contributions received for members working under this provision only cover approximately 25% of the benefits they are paid, which means it is not cost-neutral to the system.

SB 387

Sponsor: Senator Brian Hoven (R) SD 13
Title: Establish Tier Three for New Hires in Teachers' Retirement System
Effective: Upon Passage and Approval (except as noted in bill)
Current Status: *Failed to Pass Legislature*
TRS Position: Opponent

This legislation would have created a new cash balance tier of membership for anyone hired after the effective date of the bill. Benefits for Tier Three members would be based on their accumulated contribution balance at the time of retirement, including an interest credit and employer match subject to the following benefit vesting schedule: 25% match after five years of service; additional 5% match after each year of service for years 6 through 10; additional 10% system match for years 11 through 15; and for members with 15 or more years of creditable service, 100% match of accumulated contributions including the interest credit.

TRS opposed this bill because it would have increased the normal cost of providing benefits over time, leaving less funding available to pay off existing unfunded liabilities and putting the whole system at risk of becoming actuarially unsound. In addition to increasing costs, the bill would have eliminated (for Tier Three members) the one-time \$500 death benefit and \$200 per month minor child benefit payable under current law for active, vested members who die prior to retirement. This legislation also would have eliminated restrictions on postretirement employment for Tier Three retirees, allowing them to return to work shortly after retiring with no limit on the amount they could earn (a practice known as "double dipping").

Call TRS at (406) 444-3134 or (866) 600-4045 if you have any questions about this legislative summary.