

SENATE BILL NO. 115

INTRODUCED BY M. MOE, F. MOORE

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR INCREASED FREQUENCY OF STIPENDS AND ADDITIONAL STIPENDS FOR CERTAIN CERTIFIED TEACHERS; MAKING THE STIPENDS ANNUAL; PROVIDING AN ADDITIONAL STIPEND FOR TEACHERS EMPLOYED IN CERTAIN SCHOOLS; AMENDING ~~SECTION~~ SECTIONS 19-20-101 AND 20-4-134, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY 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" 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. Regular interest must be computed and allowed to provide a benefit at the time of retirement.

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

(4) "Beneficiary" means one or more persons formally designated by a member or retiree to receive a retirement allowance or payment upon the death of the member or retiree, except for a joint annuitant.

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

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

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

(8) (a) "Earned compensation" means, except as limited by subsections (8)(b) and (8)(c) or by

1 19-20-715, remuneration paid for the service of a member out of funds controlled by an employer before any
2 pretax deductions allowed under the Internal Revenue Code are deducted.

3 (b) Earned compensation does not include:

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

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

7 (A) professional membership dues;

8 (B) maintenance;

9 (C) housing;

10 (D) day care;

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

12 (F) any similar form of maintenance, allowance, or expenses;

13 (iii) the imputed value of health, life, or disability insurance or any other fringe benefits;

14 (iv) any noncash benefit provided by an employer to or on behalf of a member;

15 (v) termination pay unless included pursuant to 19-20-716;

16 (vi) compensation paid to a member from a plan for the deferral of compensation under section 457(f)
17 of the Internal Revenue Code, 26 U.S.C. 457(f);

18 (vii) payment for sick, annual, or other types of leave paid to a member prior to termination from
19 employment or accrued in excess of that normally allowed;

20 (viii) incentive or bonus payments paid to a member that are not part of a series of annual payments; or

21 (ix) a professional stipend paid pursuant to 20-4-134; or

22 ~~(ix)~~(x) any similar payment or reimbursement made to or on behalf of a member by an employer.

23 (c) Adding a direct employer-paid or noncash benefit to an employee's contract or subtracting the same
24 or a similar amount as a pretax deduction is considered a fringe benefit and not earned compensation.

25 (9) "Employer" means:

26 (a) the state of Montana;

27 (b) a public school district, as provided in 20-6-101 and 20-6-701;

28 (c) the office of public instruction;

29 (d) the board of public education;

30 (e) an education cooperative;

- 1 (f) the Montana school for the deaf and blind, as described in 20-8-101;
- 2 (g) the Montana youth challenge program, as defined in 10-1-101;
- 3 (h) a state youth correctional facility, as defined in 41-5-103;
- 4 (i) the Montana university system;
- 5 (j) a community college; or
- 6 (k) any other agency, political subdivision, or instrumentality of the state that employs a person who is
- 7 designated a member of the retirement system pursuant to 19-20-302.
- 8 (10) "Full-time service" means service that is:
- 9 (a) at least 180 days in a fiscal year;
- 10 (b) at least 140 hours a month during at least 9 months in a fiscal year; or
- 11 (c) at least 1,080 hours in a fiscal year under an alternative school calendar adopted by a school board
- 12 and reported to the office of public instruction as required by 20-1-302. The standard for full-time service for a
- 13 school district operating under an alternative school calendar must be applied uniformly to all employees of the
- 14 school district required to be reported to the retirement system.
- 15 (11) "Internal Revenue Code" has the meaning provided in 15-30-2101.
- 16 (12) "Joint annuitant" means the one person that a retired member who has elected an optional allowance
- 17 under 19-20-702 has designated to receive a retirement allowance upon the death of the retired member.
- 18 (13) "Member" means a person who has an individual account in the annuity savings account. Unless
- 19 otherwise specified, "member" refers to a tier one member or a tier two member. An active member is a person
- 20 included under the provisions of 19-20-302. An inactive member is a person included under the provisions of
- 21 19-20-303.
- 22 (14) "Normal form" or "normal form benefit" means a monthly retirement benefit payable during the
- 23 lifetime of the retired member.
- 24 (15) "Normal retirement age" means an age no earlier than 60 years of age.
- 25 (16) "Part-time service" means service that is not full-time service. Part-time service must be credited in
- 26 the proportion that the actual time worked compares to full-time service.
- 27 (17) "Position reportable to the retirement system" means a position in which an individual performs
- 28 duties that would entitle the person to active membership in the retirement system under the provisions of
- 29 19-20-302.
- 30 (18) "Regular interest" means interest at a rate set by the retirement board in accordance with

1 19-20-501(2).

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

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

6 (21) "Retirement board" or "board" means the retirement system's governing board provided for in
7 2-15-1010.

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

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

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

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

17 (b) Termination pay does not include:

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

20 (ii) amounts that are payable to a member from a plan for the deferral of compensation under section
21 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f).

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

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

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

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

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2 **Section 2.** Section 20-4-134, MCA, is amended to read:

3 **"20-4-134. Professional stipends for teachers certified by national board for professional teaching**
 4 **standards.** (1) Pursuant to subsection ~~(4)~~, a one-time (5), an annual stipend of \$3,000 UP TO \$1,500 must be
 5 provided to each teacher who ~~obtains certification~~ holds a current certificate from the national board for
 6 professional teaching standards if the teacher is:

7 (a) a full-time classroom teacher, librarian, or other full-time employee serving in an assignment covered
 8 by national board certification assessment;

9 (b) certified to teach in Montana under the provisions of 20-4-103; and

10 (c) a full-time employee of:

11 (i) a Montana public school district, as defined in 20-6-101;

12 (ii) an education cooperative, as described in 20-7-451;

13 (iii) the Montana school for the deaf and blind, as described in 20-8-101; or

14 (iv) a state youth correctional facility, as defined in 41-5-103.

15 (2) An annual \$3,000 stipend OF UP TO \$2,500 in addition to the annual stipend provided for in subsection
 16 (4) must be provided to each teacher who meets the criteria for the stipend in subsection (1) and who has an
 17 instructional assignment in a school identified as:

18 (a) a school in a high poverty area eligible to participate in the community eligibility provision under Public
 19 Law 111-296; or

20 (b) a school impacted by a critical quality educator shortage pursuant to 20-4-503.

21 (2)(3) A teacher is becomes eligible for the stipend in subsection (1) and, if applicable, the additional
 22 stipend in subsection (2) in the school year beginning July 1 after the teacher obtains certification or recertification
 23 from the national board for professional teaching standards.

24 (3)(4) By March 1, the superintendent of public instruction shall distribute stipend payments to each
 25 eligible teacher any entity listed in subsections (1)(c)(i) through (1)(c)(iv) that employs an eligible teacher.

26 (4)(5) The obligation for funding A PORTION OF the professional stipend stipends is an obligation of the
 27 state. This section may not be construed to require a school district to provide a stipend stipends ITS MATCHING
 28 PORTION OF A STIPEND to a qualifying teacher without a payment from the state to the district. If the funding for
 29 professional stipends is less than the total amount for which Montana teachers qualify, the superintendent of
 30 public instruction shall prorate the funding to the districts in a manner that provides the same amount of stipend

1 ~~to each qualifying teacher. If the money appropriated for the stipends is not enough to provide the full amount for~~
 2 ~~each eligible teacher, the superintendent of public instruction shall request the state budget director to submit a~~
 3 ~~request for a supplemental appropriation in the second year of the biennium that is sufficient to complete the~~
 4 ~~funding of the stipends.~~

5 (6) (A) FOR A STIPEND UNDER SUBSECTION (1), THE STATE SHALL PAY \$500 AND ANOTHER \$1 FOR EACH \$1
 6 CONTRIBUTED BY THE TEACHER'S SCHOOL DISTRICT, UP TO A MAXIMUM STATE CONTRIBUTION OF \$1,000.

7 (B) FOR A STIPEND UNDER SUBSECTION (2), THE STATE SHALL PAY \$1,000 AND ANOTHER \$2 FOR EACH \$1
 8 CONTRIBUTED BY THE TEACHER'S SCHOOL DISTRICT, UP TO A MAXIMUM STATE CONTRIBUTION OF \$2,000."

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10 NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2017.

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12 NEW SECTION. SECTION 4. APPLICABILITY. [THIS ACT] APPLIES TO TEACHERS WHO OBTAIN CERTIFICATION
 13 OR RECERTIFICATION FROM THE NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS ON OR AFTER JULY 1, 2017.

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- END -