

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO LEGISLATORS;
5 REVISING LEGISLATOR SALARY; REVISING THE COST OF PROVIDING THE MONTANA CODE
6 ANNOTATED TO LEGISLATORS; REQUIRING NEW LEGISLATORS TO PARTICIPATE IN THE PUBLIC
7 EMPLOYEES' DEFINED CONTRIBUTION RETIREMENT PLAN; REVISING DECLARATION OF NOMINATION
8 FILING DEADLINES FOR LEGISLATIVE CANDIDATES; AMENDING SECTIONS 5-2-301, 5-2-303, 5-11-209,
9 13-10-201, AND 19-3-412, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 **Section 1.** Section 5-2-301, MCA, is amended to read:

14 **"5-2-301. Compensation and expenses for members while in session.** (1) Legislators are entitled
15 to a weekly salary commensurate to that of the ~~daily rate for an employee earning \$10.33 an hour~~ hourly rate of
16 the median salary of the blue collar pay plan of the executive branch times 48 when the regular session of the
17 legislature in which they serve is convened under 5-2-103 for those ~~days~~ weeks during which the legislature is
18 in session 5 days a week or more. The hourly rate must be adjusted proportionally by ~~any statutorily required pay~~
19 ~~increase~~ the process in subsection (4). If the legislature meets in session less than 5 days in a week, the daily
20 rate of \$163.36 applies. The president of the senate and the speaker of the house must receive an additional
21 ~~\$5~~ \$10 a day in salary for those days during which the legislature is in session.

22 (2) Legislators may serve for no salary.

23 (3) Subject to subsection (4), legislators are entitled to a daily allowance, 7 days a week, during a
24 legislative session, as reimbursement for expenses incurred in attending a session. Expense payments must stop
25 when the legislature recesses for more than 3 days and resume when the legislature reconvenes.

26 (4) After November 15; and prior to December 15 of each even-numbered year, the department of
27 administration shall:

28 (a) conduct a survey of the allowance for daily expenses of legislators for the states of North Dakota,
29 South Dakota, Wyoming, and Idaho. The department shall include the average daily expense allowance for
30 Montana legislators in determining the average daily rate for legislators. The department shall include only states



1 with specific daily allowances in the calculation of the average. If the average daily rate is greater than the daily
 2 rate for legislators in Montana, legislators are entitled to a new daily rate for those days during which the
 3 legislature is in session. The new daily rate is the daily rate for the prior legislative session, increased by the
 4 percentage rate increase as determined by the survey, a cost-of-living increase to reflect inflation that is
 5 calculated pursuant to 15-6-134, or 5%, whichever is less.

6 (b) determine the hourly rate of the median salary of an executive branch employee in the blue collar
 7 pay plan.

8 (5) The expense allowance ~~is~~ and hourly rate are effective when the next regular session of the
 9 legislature in which the legislators serve is convened under 5-2-103.

10 ~~(5)(6)~~ Legislators are entitled to a mileage allowance as provided in 2-18-503 for each mile of travel to
 11 the place of the holding of the session and to return to their place of residence at the conclusion of the session.

12 ~~(6)(7)~~ In addition to the mileage allowance provided for in subsection ~~(5)~~ (6), legislators, upon submittal
 13 of an appropriate claim for mileage reimbursement to the legislative services division, are entitled to:

14 (a) three additional round trips to their place of residence during each regular session; and

15 (b) additional round trips as authorized by the legislature during special session.

16 ~~(7)(8)~~ Legislators are not entitled to any additional mileage allowance under subsection ~~(5)~~ (6) for a
 17 special session if it is convened within 7 days of a regular session."

18

19 **Section 2.** Section 5-2-303, MCA, is amended to read:

20 **"5-2-303. Participation in state benefits group -- employer contribution made to other plan. (1)**

21 Individual members of the senate and the house of representatives may enroll in the state employees benefits
 22 group during the terms to which they have been elected. The provider of benefits shall enroll and collect
 23 employee contributions directly from those legislators. The employer contribution must be paid from funds
 24 appropriated for that purpose.

25 (2) (a) If a member does not enroll or terminates enrollment under the state employees benefits group
 26 plan and is insured under a plan providing disability insurance as defined in 33-1-207, the department of
 27 administration, upon request of the member, shall pay to the member's insurer an amount equal to the premium
 28 required to be paid by the member for coverage of the member and any dependents under the disability
 29 insurance plan, subject to the limitation contained in subsection (2)(b).

30 (b) A payment made under subsection (2)(a) may not exceed the amount of the employer contribution

1 for group benefits for members of the legislature as provided for in 2-18-703.

2 (c) Unused employer contributions must be transferred to an account as provided in 2-18-703 for a
3 legislator who is a state employee and who has contributions paid for by another agency when the legislature is
4 not in session.

5 (3) A legislator may participate in a medical or child care flexible spending account as allowed by the
6 state-operated plans and federal law, including but not limited to health insurance premiums, qualified medical
7 expenses, and child care expenses. The legislator is responsible for payment of all required contributions and
8 fees. The legislative services division and the department of administration shall assist in administration of the
9 accounts."

10

11 **Section 3.** Section 5-11-209, MCA, is amended to read:

12 **"5-11-209. Codes -- availability to legislators -- reserved for use by legislative committees.** (1)

13 When it becomes available after each regular legislative session, each legislator is entitled to purchase₁ for ~~\$10~~
14 \$20 each₁ one set of the printed and bound Montana Code Annotated statute text and histories and one Montana
15 Code Annotated that is produced for sale to the public on computer-readable media, such as CD-ROM.

16 (2) The legislative services division shall reserve 50 sets of the printed versions of Montana Code
17 Annotated statute text and histories for the use of the standing and select committees of the legislature.

18 (3) Costs associated with providing code sets as required by this section must be paid out of the state
19 special revenue fund account established under 1-11-301."

20

21 **Section 4.** Section 13-10-201, MCA, is amended to read:

22 **"13-10-201. Declaration for nomination -- term limitations.** (1) Each candidate in the primary election,
23 except nonpartisan candidates filing under the provisions of Title 13, chapter 14, shall file a declaration for
24 nomination with the secretary of state or election administrator. Except for a candidate who files under 13-38-201,
25 a candidate may not file for more than one public office. Each candidate for governor shall file a joint declaration
26 for nomination with a candidate for lieutenant governor.

27 (2) A declaration for nomination must be filed in the office of:

28 (a) the secretary of state for placement of a name on the ballot for the presidential preference primary,
29 a congressional office, a state or district office to be voted for in more than one county, a member of the
30 legislature, or a judge of the district court;

1 (b) the election administrator for a county, municipal, precinct, or district office (other than a member of
2 the legislature or judge of the district court) to be voted for in only one county.

3 (3) Each candidate shall sign the declaration and send with it the required filing fee or, in the case of an
4 indigent candidate, send with it the documents required by 13-10-203. Unless filed electronically with the
5 secretary of state, the declaration for nomination must be acknowledged by an officer empowered to acknowledge
6 signatures or by the officer of the office at which the filing is made.

7 (4) The declaration for nomination must include an oath of the candidate that includes wording
8 substantially as follows: "I hereby affirm that I possess, or will possess within constitutional and statutory
9 deadlines, the qualifications prescribed by the Montana constitution and the laws of the United States and the
10 state of Montana." The candidate affirmation included in this oath is presumed to be valid unless proven otherwise
11 in a court of law.

12 (5) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by
13 the elector's party. For a partisan election, an elector may not file a declaration for more than one party's
14 nomination.

15 (6) (a) The declaration for nomination must be in the form and contain the information prescribed by the
16 secretary of state.

17 (b) A person seeking nomination to the legislature shall provide the secretary of state with a street
18 address, legal description, or road designation to indicate the person's place of residence. If a candidate for the
19 legislature changes residence, the candidate shall, within 15 days after the change, notify the secretary of state
20 on a form prescribed by the secretary of state.

21 (c) The secretary of state and election administrator shall furnish declaration for nomination forms to
22 individuals requesting them.

23 (7) (a) Except as provided in 13-10-211 and ~~subsection~~ subsections (7)(b) and (7)(c) of this section, a
24 candidate's declaration for nomination must be filed no sooner than 135 days before the election in which the
25 office first appears on the ballot and no later than 5 p.m., 75 days before the date of the primary election.

26 (b) ~~For~~ Except as provided in subsection (7)(c), for an election held pursuant to 13-1-104(1)(a) or
27 13-1-107(1) or for a political subdivision that holds an election on the date of either of those elections, a
28 candidate's declaration for nomination must be filed no sooner than 145 days before the election in which the
29 office first appears on the ballot and no later than 5 p.m., 85 days before the date of the primary election.

30 (c) For an election for the legislature held pursuant to 13-1-104(1)(a) or 13-1-107(1), a candidate's

1 declaration for nomination must be filed no sooner than 92 days before the election in which the office first
 2 appears on the ballot and no later than 5 p.m., 85 days before the date of the primary election.

3 (8) A properly completed and signed declaration for nomination form may be sent by facsimile
 4 transmission, electronically mailed, delivered in person, or mailed to the election administrator or to the secretary
 5 of state.

6 (9) For the purposes of implementing Article IV, section 8, of the Montana constitution, the secretary of
 7 state shall apply the following conditions:

8 (a) A term of office for an official serving in the office or a candidate seeking the office is considered to
 9 begin on January 1 of the term for which the official is elected or for which the candidate seeks election and end
 10 on December 31 of the term for which the official is elected or for which the candidate seeks election.

11 (b) A year is considered to start on January 1 and end on the following December 31.

12 (c) "Current term", as used in Article IV, section 8, of the Montana constitution, has the meaning provided
 13 in 2-16-214."

14

15 **Section 5.** Section 19-3-412, MCA, is amended to read:

16 **"19-3-412. Optional membership.** (1) Except as provided in 5-2-304 and subsection (2) of this section,
 17 the following employees and elected officials in covered positions shall elect either to become active members
 18 of the retirement system or to decline this optional membership by filing an irrevocable, written application with
 19 the board in the manner prescribed in subsection ~~(3)~~ (4):

20 (a) elected officials of the state or local governments, including individuals appointed to fill the unexpired
 21 term of elected officials, who:

22 (i) are paid on a salary or wage basis rather than on a per diem or other reimbursement basis; or

23 (ii) were members receiving retirement benefits under the defined benefit plan or a distribution under the
 24 defined contribution plan at the time of their election;

25 (b) employees serving in employment that does not cumulatively exceed a total of 960 hours of covered
 26 employment with all employers under this chapter in any fiscal year;

27 (c) employees directly appointed by the governor;

28 (d) employees working 10 months or less for the legislative branch to perform work related to the
 29 legislative session;

30 (e) the chief administrative officer of any city or county;

1 (f) employees of county hospitals or rest homes.

2 (2) A member who is elected to a local government position in which the member works less than 960
3 hours in a fiscal year may, within 90 days of taking office, decline optional membership with respect to the
4 member's elected position.

5 (3) If a person who is elected or appointed to the legislature after December 31, 2015, who is not at that
6 time a member, and who has not previously declined membership in that position elects to become a member
7 pursuant to this section, the person may only become a member of the defined contribution plan.

8 ~~(3)~~(4) (a) The board shall prescribe the form of the written application required pursuant to subsection
9 (1) and provide written application forms to each employer.

10 (b) Each employee or elected official in a position covered under subsection (1) shall obtain the written
11 application form from the employer and complete and return it to the board.

12 (c) The written application must be filed with the board:

13 (i) for an employee described in subsection (1)(d), within 90 days of the commencement of the
14 employee's employment; and

15 (ii) for an employee or elected official described in subsection (1)(a), (1)(b), (1)(c), (1)(e), or (1)(f), within
16 90 days of the commencement of the employee's or elected official's employment.

17 (d) The employer shall retain a copy of the employee's or elected official's written application.

18 ~~(4)~~(5) If the employee or elected official fails to file the written application required under subsection (1)
19 with the board within the time allowed in subsection ~~(3)~~ (4), the employee or elected official waives membership.

20 ~~(5)~~(6) An employee or elected official who declines optional membership may not receive membership
21 service or service credit for the employment for which membership was declined.

22 ~~(6)~~(7) An employee or elected official who declined optional membership but later becomes a member
23 may purchase service credit for the period of time beginning with the date of employment in which membership
24 was declined to the commencement of membership. Purchase of service credit pursuant to this subsection must
25 comply with 19-3-505.

26 ~~(7)~~(8) Except as provided in subsection (2), membership in the retirement system is not optional for an
27 employee or elected official who is already a member. Upon employment in a position for which membership is
28 optional:

29 (a) a member who was an active member before the employment remains an active member;

30 (b) a member who was an inactive member before the employment becomes an active member; and

1 (c) a member who was a retired member before the employment is subject to part 11 of this chapter.

2 ~~(8)~~(9) (a) An employee who declines membership for a position for which membership is optional may
3 not later become a member while still employed with the same employer but in a different optional membership
4 position.

5 (b) An elected official who declines membership for a position for which membership is optional may not
6 later become a member if reelected to the same optional membership position.

7 (c) If, after termination from employment for 30 days or more, an employee who was employed in an
8 optional membership position is reemployed in the same position or is employed in a different position for which
9 membership is optional, the employee shall again choose or decline membership.

10 (d) If the termination from employment is less than 30 days, an employee who declined membership is
11 bound by the employee's original decision to decline membership.

12 ~~(9)~~(10) An employee accepting a position that requires membership must become a member even if the
13 employee previously declined membership and did not have a 30-day break in service."
14

15 COORDINATION SECTION. **Section 6. Coordination instruction.** If both House Bill No. 101 and [this
16 act] are passed and approved, then [section 5 of this act], amending 19-3-412, is void and [section 9] of House
17 Bill No. 101 is amended as follows:

18 "NEW SECTION. **Section 9. Optional membership -- elected officials.** (1) (a) Except as provided
19 in 5-2-304 and subsection (2) of this section, a person who is elected or appointed to an elected office and paid
20 a salary or wage by an employer shall elect either to become an active member of the retirement system or to
21 decline this optional membership by filing an irrevocable, written application with the board in the manner
22 prescribed in subsection ~~(3)~~ (4).

23 (b) If the elected official is a retired member, the elected official may make an election under this section
24 to become an active member or to decline membership and remain a retired member with no limitation on the
25 number of hours worked or wages earned in the elected office.

26 (2) An elected official who works more than 960 hours in a fiscal year in that elected office and who was
27 an active or inactive member before becoming an elected official is not eligible to make an election under
28 subsection (1). An active member remains an active member for all covered employment, and an inactive
29 member shall become an active member.

30 (3) If a person who is elected or appointed to the legislature after December 31, 2015, who is not at that

1 time a member, and who has not previously declined membership in that position elects to become a member
2 pursuant to this section, the person may only become a member of the defined contribution plan.

3 ~~(3)~~(4) (a) The board shall prescribe the form of the written application required pursuant to this section
4 and provide the form to each employer.

5 (b) An election form must be completed and returned to the board within 90 days after the elected official
6 assumes office. Failure to file the written application form within 90 days is considered an election to decline
7 membership.

8 (c) The employer shall retain a copy of the elected official's written application.

9 ~~(4)~~(5) Except as provided in subsection ~~(5)~~ (6), an elected official who declines optional membership may
10 not receive membership service or service credit for any employment in the position for which membership was
11 declined.

12 ~~(5)~~(6) An elected official who declined optional membership under this section but who later becomes
13 a member may purchase service credit for the period of time the person was employed in the optional position
14 and declined membership. Purchase of service credit pursuant to this subsection must comply with 19-3-505.

15 ~~(6)~~(7) An elected official who has made an election under this section and who is reelected or
16 reappointed to the same office is not eligible to make a new election.

17 ~~(7)~~(8) For purposes of this section, "elected official" means all persons covered by subsection (1)(a)."
18

19 NEW SECTION. Section 7. Effective date. [This act] is effective January 1, 2017.

20

- END -