

AN ACT

ENTITLED, An Act to revise the definition of compensation for purposes of the South Dakota Retirement System, to provide a penalty for falsely reporting compensation, and to update references to the Internal Revenue Code.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 3-12-47.6 be amended to read:

3-12-47.6. For the purposes of this chapter, the term, compensation, means gross wages paid to a member by the employer for credited service rendered during the period for which the payment was earned. Compensation includes any amount reported as wages, tips, and other compensation on the member's federal form W-2 wage and tax statement, except as otherwise excluded in this section; any amount of member contributions made by an employer after June 30, 1984, pursuant to § 3-12-71; any amount contributed by a member to a plan that meets the requirements of section 125, 401, 403, 408, or 457 of the Internal Revenue Code; and any amount contributed to the system pursuant to § 3-12-83.2 in accord with § 414(h)(2) of the Internal Revenue Code.

Compensation does not include any allowance, payment, or reimbursement for travel, meals, lodging, moving, uniforms, or any other expense that is incidental to employment and paid or reimbursed by the employer; any lump sum payment for sick leave; any lump sum payment for annual leave; any payment for, or in lieu of, insurance coverage of any kind or any other employee benefit paid by an employer directly to a member or directly to a third party on behalf of a member or a member and any dependent; any allowance or payment for housing or vehicles; any temporary payment paid as a lump sum or over a period of time that is not due to additional duties; any amount paid in a one-time lump sum payment or over a period of time and based on or attributable to retirement or an agreement to retire in the future or results in an incentive to retire; any payment made upon dismissal or severance; any worker's compensation payment; and any payment contingent

on a member terminating employment at a specified time in the future paid or payable in a lump sum or over a period of time.

Any compensation in excess of the limits established in § 401(a)(17) of the Internal Revenue Code shall be disregarded for purposes of contributions or for benefit calculations under the system. However, the limit does not apply to compensation earned by a member if the member was employed by a participating unit before July 1, 1996.

Section 2. That § 3-12-47.6 be amended to read:

3-12-47.6. For the purposes of this chapter, the term, compensation, means gross wages paid to a member by the employer for credited service rendered during the period for which the payment was earned. Compensation includes any amount reported as wages, tips, and other compensation on the member's federal form W-2 wage and tax statement, except as otherwise excluded in this section; any amount of member contributions made by an employer after June 30, 1984, pursuant to § 3-12-71; any amount contributed by a member to a plan that meets the requirements of section 125, 401, 403, 408, or 457 of the Internal Revenue Code; and any amount contributed to the system pursuant to § 3-12-83.2 in accord with § 414(h)(2) of the Internal Revenue Code.

Compensation does not include any allowance, payment, or reimbursement for travel, meals, lodging, moving, uniforms, or any other expense that is incidental to employment and paid or reimbursed by the employer; any lump sum payment for sick leave; any lump sum payment for annual leave; any payment for, or in lieu of, insurance coverage of any kind or any other employee benefit paid by an employer directly to a member or directly to a third party on behalf of a member or a member and any dependent; any allowance or payment for housing or vehicles; any temporary payment paid as a lump sum or over a period of time that is not due to additional duties; any amount paid in a one-time lump sum payment or over a period of time and based on or attributable to retirement or an agreement to retire in the future or results in an incentive to retire; any payment

made upon dismissal or severance; any worker's compensation payment; and any payment contingent on a member terminating employment at a specified time in the future paid or payable in a lump sum or over a period of time.

Section 3. That chapter 3-12 be amended by adding a NEW SECTION to read:

Any compensation in excess of the limits established in § 401(a)(17) of the Internal Revenue Code shall be disregarded for purposes of contributions and benefit calculations under the system. Any benefit calculations for members subject to the limits established in § 401(a)(17) of the Internal Revenue Code but for whom the limitation on compensation did not apply before January 1, 2018, shall be based on unlimited compensation for credited service before January 1, 2018, and limited compensation for credited service as of January 1, 2018.

Section 4. The provisions of sections 2 and 3 of this Act are effective on January 1, 2018.

Section 5. That chapter 3-12 be amended by adding a NEW SECTION to read:

Any person or employer who transmits a report of compensation to the system knowing that some or all of the compensation is excluded by § 3-12-47.6, is guilty of a Class 1 misdemeanor.

Section 6. That subdivision (50) of § 3-12-47 be amended to read:

(50) "Internal Revenue Code," or "code," the Internal Revenue Code as in effect as of January 1, 2017;

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I certify that the attached Act originated in the

HOUSE as Bill No. 1017

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1017
File No. _____
Chapter No. _____

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Received at this Executive Office this ____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20__

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State