HOUSE BILL NO. 205

INTRODUCED BY DAVIS, COCCHIARELLA, DAILY, MCCULLOCH, FARRELL BY REQUEST OF THE TEACHERS' RETIREMENT BOARD

IN THE HOUSE

JANUARY 16, 1991

INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.

FIRST READING.

JANUARY 24, 1991 COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.

JANUARY 25, 1991 PRINTING REPORT.

JANUARY 26, 1991 SECOND READING, DO PASS.

JANUARY 28, 1991 ENGROSSING REPORT.

JANUARY 30, 1991 THIRD READING, PASSED. AYES, 99; NOES, 1.

TRANSMITTED TO SENATE.

ON STATE ADMINISTRATION.

IN THE SENATE

JANUARY 31, 1991

FIRST READING.

FEBRUARY 6, 1991

FEBRUARY 9, 1991

FEBRUARY 11, 1991

COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.

INTRODUCED AND REFERRED TO COMMITTEE

SECOND READING, CONCURRED IN.

THIRD READING, CONCURRED IN. AYES, 48; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

FEBRUARY 12, 1991 RECEIVED FROM SENATE. FEBRUARY 21, 1991 SENT TO ENROLLING. REPORTED CORRECTLY ENROLLED. 52nd Legislature

LC 0548/01

LOUSE BILL NO. 205 1 INTRODUCED BY A TWO ARELIANULS 2 BY REQUEST OF THE TEACHERS' RETIREMENT BOARD 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE 6 CALCULATION OF CONTRIBUTIONS DUE FOR SERVICE CREDITS 7 TRANSFERRED BETWEEN THE PUBLIC EMPLOYEES' AND TEACHERS'

8 RETIREMENT SYSTEMS; AMENDING SECTIONS 19-3-511 AND 19-4-409,
 9 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A
 10 RETROACTIVE APPLICABILITY DATE."

11

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

13 Section 1. Section 19-3-511, MCA, is amended to read: 14 "19-3-511. Transfer of service credits from teachers' 15 retirement system. (1) A member may at any time before his 16 retirement make a written election with the board to qualify 17 in the public employees' retirement system all of his 18 creditable service in the teachers' retirement system. The 19 amount that must be paid to the retirement system to qualify 20 this service under this section is the sum of subsections 21 (2) and (3).

(2) The teachers' retirement system shall transfer to
the public employees' retirement system an amount equal to
5%---of--the--average--final--compensation7--as--defined--in
19-4-1017-earned-by-the-member-multiplied-by-the-total-years

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1 of--creditable--service--being--transferred---plus---accrued 2 interest--from--the--date--of--termination--until-payment-is з received-by-the-retirement-system,--based--on--the--interest 4 tables--in--use--by--the-teachers--retirement-system.-if-the 5 member-had-less-than-3-full-years-of-membership-service--the 6 average-final-compensation-must-be-based-on-the-compensation 7 reported-to-the-teachers-retirement-board-by--the--employer 8 72% of the amount determined in accordance with subsection 9 (3).

10 (3) (a) The employee shall pay an amount equal to his 11 accumulated contributions at the time he terminated active 12 membership, as defined in 19-4-302, plus accrued interest 13 from the date of termination until payment is received by 14 the retirement system, based on the interest tables in use 15 by the teachers' retirement system.

16 (b)--If--the--sum--of-the-rates-provided-in-19-3-701-and 17 19-3-801-exceeded-the-sum-of-the-rates-provided-in--19-4-602 18 and--19-4-605--at--the--time--the-employee-terminated-active 19 membershipy-as-defined-in-19-4-3027-the-employee--shall--pay an--amount-in-addition-to-that-required-in-subsection-(3)(a) 20 21 to-receive-full-credit-for--the--service--transferred---This 22 additional-amount-is-equal-to-23 (i)--the--final-compensation-as-determined-in-subsection 24 (2)-multiplied-by-the--total--years--of--ereditable--service 25 being--transferred--multiplied-by-the-difference-between-the INTRODUCED BILL

HB 205

1 sum-of-the-rates-provided-for-in-19-3-701-and-19-3-801--and 2 the-sum-of-the-rates-provided-in-19-4-602-and-19-4-6057-plus 3 (ii)-accrued-interest-from-the-date-of-termination-until 4 payment--is--received-by-the-retirement-system7-based-on-the 5 interest-tables-in-use-by-the-retirement-system7

6 (c)--If-the-member-chooses-not-to-make-the--contribution 7 provided--for--in--this-section,-he-shall-receive-credit-for 8 the-service-transferred--based--on--the--ratio--between--the 9 retirement-systemsi-employee-and-employer-contribution-rates 10 provided-for-in-19-3-7017-19-3-8017-19-4-6027-and-19-4-605.

11 (4) The amount of creditable service granted in 12 subsection (1) must be on a month-by-month basis. Military 13 service credit transferred from the teachers' retirement 14 system must be included in the 5-year maximum military 15 service credit provided for in 19-3-503.

16 (5) Subject to the provisions of 19-3-304, the board is 17 the sole authority in determining the amount of creditable 18 service qualified under this section and the amount paid to 19 the retirement system under subsections(2) and (3).

20 (6) If a member who has creditable service in the 21 teachers' retirement system dies before he qualifies this 22 service in the public employees' retirement system and if 23 the service credits from both systems, when combined, 24 entitle his beneficiary to a death benefit, the payment of 25 the death benefit is the liability of the public employees' 1 retirement system. Before payment of the death benefit, the 2 teachers' retirement board must transfer to the public 3 employees' retirement system the contributions necessary to 4 qualify this service in the public employees' retirement 5 system as provided in subsections (2) and (3)."

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6 Section 2. Section 19-4-409, MCA, is amended to read:

7 "19-4-409. Transfer of service credits from public employees' retirement system. (1) A member may at any time 8 9 before his retirement make a written election with the 10 retirement board to gualify in the teachers' retirement 11 system all of his creditable service in the public 12 employees' retirement system. The amount that must be paid to the retirement system to gualify this service under this 13 14 section is the sum of subsections (2) and (3).

(2) The public employees' retirement system shall 15 16 transfer to the teachers' retirement system an amount equal 17 to 5%-of-the-final-compensation;--as--defined--in--19-3-104; 18 carned--by--the--member--multiplied--by--the--total-years-of 19 creditable-service-being-transferred-plus--accrued--interest 20 from--the--date--of-termination-until-payment-is-received-by 21 the-retirement-system--based-on-the-interest-tables--in--use 22 by--the--public--employees'-retirement-system--if-the-member 23 had-less-than-3-full-years-of-membership-service,-the--final 24 compensation--must--be-based-on-the-compensation-reported-to 25 the-public-employees'-retirement-board-by-the--employer 72%

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1 of the amount determined in accordance with subsection (3). (3) fat The employee shall pay an amount equal to his 2 3 accumulated contributions at the time he terminated active membership under 19-3-406 plus accrued interest from the 4 5 date of termination until payment is received by the retirement system, based on the interest tables in use by 6 the public employees' retirement system. 7 8 (b)--If--the--sum--of-the-rates-provided-in-19-4-602-and 9 19-4-605-exceeded-the-sum-of-the-rates-provided-in--19-3-701 10 and--19-3-801--at--the--time--the-employee-terminated-active 11 membership-under-19-3-4067-the-employee-shall-pay-an--amount 12 in-addition-to-that-required-in-subsection-(3)(a)-to-receive 13 full--credit--for--the--service-transferred; This-additional 14 amount-is-equal-to: 15 fi)--the-final-compensation-as-determined-in--subsection 16 +2)--multiplied--by--the--total--years-of-creditable-service 17 being-transferred-multiplied-by-the-difference--between--the 18 sum--of--the-rates-provided-in-19-4-602-and-19-4-605-and-the 19 sum-of-the-rates-provided-in-19-3-701-and-19-3-801;-plus 20 fiit-accrued-interest-from-the-date-of-termination-until

21 payment-is-received-by-the-retirement-system,-based--on--the
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23 (c)--If--the-member-chooses-not-to-make-the-contribution
 24 as-provided-in-this-section7-he-shall-receive-credit-for-the
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1 retirement-systems'-employee-and-employer-contribution-rates
2 provided---for---under--19-3-7017--19-3-8017--19-4-6027--and
3 19-4-6057

4 (4) A member who qualifies service from the public 5 employees' retirement system in the teachers' retirement 6 system must complete 5 years of membership service in the 7 teachers' retirement system to qualify or purchase military 8 service, out-of-state teaching service, employment while on 9 leave, and private school employment.

10 (5) The retirement board shall determine the service 11 credits that may be transferred.

12 (6) If a member who has creditable service in the 13 public employees' retirement system dies before he qualifies 14 this service in the teachers' retirement system and if his 15 service credits from both systems, when combined, entitle 16 his beneficiary to a death benefit, the payment of the death 17 benefit is the liability of the teachers' retirement system. 18 Before payment of the death benefit, the public employees' 19 retirement board must transfer to the teachers' retirement 20 system the contributions necessary to qualify this service 21 in the teachers' retirement system as provided in 22 subsections(2) and (3).

23 (7) If the retirement board determines that an 24 individual's membership was erroneously classified, the 25 member's accumulated contributions and service must be

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1 transferred to the teachers' retirement system and any 2 employee and employer contributions due as calculated in 3 19-4-602 and 19-4-605 are the liability of the employee and 4 the employing entity where the error occurred, 5 respectively."

6 <u>NEW SECTION.</u> Section 3. Retroactive applicability. 7 [This act] applies retroactively, within the meaning of 8 1-2-109, to service credits transferred between the public 9 employees' retirement system and the teachers' retirement 10 system on and after October 1, 1989.

11 NEW SECTION. Section 4. Effective date. [This act] is 12 effective upon passage and approval.

-End-

52nd Legislature

APPROVED BY COMMITTEE ON STATE ADMINISTRATION LOUSE BILL NO. 208 INTRODUCED BY BY REQUEST OF THE TEACHERS' RETIREMENT BOARD

A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE
CALCULATION OF CONTRIBUTIONS DUE FOR SERVICE CREDITS
TRANSFERRED BETWEEN THE PUBLIC EMPLOYEES' AND TEACHERS'
RETIREMENT SYSTEMS; AMENDING SECTIONS 19-3-511 AND 19-4-409,
MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A
RETROACTIVE APPLICABILITY DATE."

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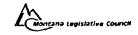
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(2) The teachers' retirement system shall transfer to
the public employees' retirement system an amount equal to
5%---of--the--average--final--compensation--as--defined--in
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1 of--creditable--service--being--transferred---plus---accrued 2 interest--from--the--date--of--termination--until-payment-is 3 received-by-the-retirement-system;--based--on--the--interest 4 tables--in--use--by--the-teachers-retirement-system.-If-the 5 member-had-less-than-3-full-years-of-membership-service--the б average-final-compensation-must-be-based-on-the-compensation 7 reported-to-the-teachers--retirement-board-by--the--employer я 72% of the amount determined in accordance with subsection 9 (3).

10 (3) (a) The employee shall pay an amount equal to his 11 accumulated contributions at the time he terminated active 12 membership, as defined in 19-4-302, plus accrued interest 13 from the date of termination until payment is received by 14 the retirement system, based on the interest tables in use 15 by the teachers' retirement system.

16 (b)--If--the--sum--of-the-rates-provided-in-19-3-701-and 17 19-3-801-exceeded-the-sum-of-the-rates-provided-in--19-4-602 18 and--19-4-605--at--the--time--the-employee-terminated-active 19 membershipy-as-defined-in-19-4-302y-the-employee--shall--pay 20 an--amount-in-addition-to-that-required-in-subsection-(3)(a) 21 to-receive-full-credit-for--the--service--transferred---This 22 additional-amount-is-equal-to: 23 (i)--the--final-compensation-as-determined-in-subsection 24 (2)-multiplied-by-the--total--years--of--creditable--service

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SECOND READING HB 205

1 sum-of-the-rates-provided-for-in-19-3-701-and-19-3-801--and 2 the-sum-of-the-rates-provided-in-19-4-602-and-19-4-605;-plus 3 (ii)-accrued-interest-from-the-date-of-termination-until 4 payment--is--received-by-the-retirement-system;-based-on-the 5 interest-tables-in-use-by-the-retirement-system;

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LC 0548/01

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11 (4) The amount of creditable service granted in
12 subsection (1) must be on a month-by-month basis. Military
13 service credit transferred from the teachers' retirement
14 system must be included in the 5-year maximum military
15 service credit provided for in 19-3-503.

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15 (2) The public employees' retirement system shall transfer to the teachers' retirement system an amount equal 16 to 5%-of-the-final-compensation;--as--defined--in--19-3-104; 17 earned--by--the--member--multiplied--by--the--total-years-of 18 19 creditable-service-being-transferred-plus-accrued--interest 20 from--the--date--of-termination-until-payment-is-received-by 21 the-retirement-systemy-based-on-the-interest-tables--in--use 22 by--the--public--employeesi-retirement-system:-If-the-member 23 had-less-than-3-full-years-of-membership-service7-the--final 24 compensation---must--be-based-on-the-compensation-reported-to 25 the-public-employees--retirement-board-by-the--employer 72%

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1	of the amount determined in accordance with subsection (3).	1	retirement-systemsemployee-and-employer-contribution-rates
2	(3) (a) The employee shall pay an amount equal to his	2	providedforunder19-3-701,19-3-801,19-4-602,and
3	accumulated contributions at the time he terminated active	3	19-4-685:
4	membership under 19-3-406 plus accrued interest from the	4	(4) A member who qualifies service from the public
5	date of termination until payment is received by the	5	employees' retirement system in the teachers' retirement
6	retirement system, based on the interest tables in use by	6	system must complete 5 years of membership service in the
7	the public employees' retirement system.	7	teachers' retirement system to qualify or purchase military
8	<pre>tb}Ifthesumof-the-rates-provided-in-19-4-602-and</pre>	8	service, out-of-state teaching service, employment while on
9	19-4-605-exceeded-the-sum-of-the-rates-provided-in19-3-701	9	leave, and private school employment.
10	and19-3-801atthetimethe-employee-terminated-active	10	(5) The retirement board shall determine the service
11	membership-under-19-3-4067-the-employee-shall-pay-anamount	11	credits that may be transferred.
12	in-addition-to-that-required-in-subsection-{3}{a}-to-receive	12	(6) If a member who has creditable service in the
13	fullcreditfortheservice-transferredThis-additional	13	public employees' retirement system dies before he qualifies
14	amount-is-equal-to:	14	this service in the teachers' retirement system and if his
15	<pre>ti)the-final-compensation-as-determined-insubsection</pre>	15	service credits from both systems, when combined, entitle
16	<pre>t2)multipliedbythetotalyears-of-creditable-service</pre>	16	his beneficiary to a death benefit, the payment of the death
17	being-transferred-multiplied-by-the-differencebetweenthe	17	benefit is the liability of the teachers' retirement system.
18	sumofthe-rates-provided-in-19-4-602-and-19-4-605-and-the	18	Before payment of the death benefit, the public employees'
19	sum-of-the-rates-provided-in-19-3-701-and-19-3-801;-plus	19	retirement board must transfer to the teachers' retirement
20	<pre>tiit-accrued-interest-from-the-date-of-termination-until</pre>	20	system the contributions necessary to qualify this service
21	payment-is-received-by-the-retitement-system;-basedonthe	21	in the teachers' retirement system as provided in
22	interest-tables-in-use-by-the-retirement-system .	22	subsections(2) and (3).
23	{c}Ifthe-member-chooses-not-to-make-the-contribution	23	(7) If the retirement board determines that an
24	as-provided-in-this-section;-he-shall-receive-credit-for-the	24	individual's membership was erroneously classified, the
25	servicetransferred;basedontheratiobetweenthe	25	member's accumulated contributions and service must be

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1 transferred to the teachers' retirement system and any 2 employee and employer contributions due as calculated in 3 19-4-602 and 19-4-605 are the liability of the employee and . 4 the employing entity where the error occurred, 5 respectively."

6 <u>NEW SECTION.</u> Section 3. Retroactive applicability. 7 [This act] applies retroactively, within the meaning of 8 1-2-109, to service credits transferred between the public 9 employees' retirement system and the teachers' retirement 10 system on and after October 1, 1989.

NEW SECTION. Section 4. Effective date. [This act] is
 effective upon passage and approval.

-End-

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52nd Legislature

HB 0205/02

HB 0205/02

HOUSE BILL NO. 205 1 2 INTRODUCED BY DAVIS, COCCHIARELLA, DAILY, MCCULLOCH, FARRELL 3 BY REQUEST OF THE TEACHERS' RETIREMENT BOARD 4 "AN ACT TO CHANGE THE 5 A BILL FOR AN ACT ENTITLED: 6 CALCULATION OF CONTRIBUTIONS DUE FOR SERVICE CREDITS 7 TRANSFERRED BETWEEN THE PUBLIC EMPLOYEES' AND TEACHERS' RETIREMENT SYSTEMS; AMENDING SECTIONS 19-3-511 AND 19-4-409, 8 9 MCA: AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE." 10 11 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 13 Section 1. Section 19-3-511, MCA, is amended to read: 14 "19-3-511. Transfer of service credits from teachers' retirement system. (1) A member may at any time before his 15 16 retirement make a written election with the board to qualify in the public employees' retirement system all of his 17 18 creditable service in the teachers' retirement system. The 19 amount that must be paid to the retirement system to qualify 20 this service under this section is the sum of subsections 21 (2) and (3). 22 .(2) The teachers' retirement system shall transfer to 23 the public employees' retirement system an amount equal to 24 5%---of--the--average--final--compensation,--as--defined--in 25 19-4-1017-earned-by-the-member-multiplied-by-the-total-years



1	ofcreditableservicebeingtransferredplusaccrued					
2	interestfromthedateofterminationuntil-payment-is					
3	received-by-the-retirement-system7basedontheinterest					
4	tablesinusebythe-teachersretirement-systemIf-the					
5	member-had-less-than-3-full-years-of-membership-service;-the					
6	average-final-compensation-must-be-based-on-the-compensation					
7	reported-to-the-teachers-retirement-board-bytheemployer					
8	72% of the amount determined in accordance with subsection					
9	<u>(3)</u> .					
10	(3) fa The employee shall pay an amount equal to his					
11	accumulated contributions at the time he terminated active					
12	membership, as defined in 19-4-302, plus accrued interest					
13	from the date of termination until payment is received by					
14	the retirement system, based on the interest tables in use					
15	by the teachers' retirement system.					
16	<pre>tb;ifthesumof-the-rates-provided-in-i9-3-70i-and</pre>					
17	19-3-801-exceeded-the-sum-of-the-rates-provided-in19-4-602					
18	and19-4-605atthetimethe-employee-terminated-active					
19	membership7-as-defined-in-19-4-3027-the-employeeshallpay					
20	anamount-in-addition-to-that-required-in-subsection-(3)(a)					
21	to-receive-full-credit-fortheservicetransferredThis					
22	additional-amount-is-equal-to:					
23	(i)thefinal-compensation-as-determined-in-subsection					
24	<pre>(2)-multiplied-by-thetotalyearsofcreditableservice</pre>					
25	beingtransferredmultiplied-by-the-difference-between-the					

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REFERENCE BILL

HB 205

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1 sum-of-the-rates-provided-for-in-19-3-701-and-19-3-801--and 2 the-sum-of-the-rates-provided-in-19-4-602-and-19-4-605;-plus 3 (ii)-accrued-interest-from-the-date-of-termination-until 4 payment--is--received-by-the-retirement-system;-based-on-the 5 interest-tables-in-use-by-the-retirement-system;

6 {c}--If-the-member-chooses-not-to-make-the--contribution 7 provided--for--in--this-section,-he-shall-receive-credit-for 8 the-service-transferred--based--on--the--ratio--between--the 9 retirement-systemsi-employee-and-employer-contribution-rates 10 provided-for-in-19-3-701,-19-3-801,-19-4-602,-and-19-4-605.

11 (4) The amount of creditable service granted in 12 subsection (1) must be on a month-by-month basis. Military 13 service credit transferred from the teachers' retirement 14 system must be included in the 5-year maximum military 15 service credit provided for in 19-3-503.

16 (5) Subject to the provisions of 19-3-304, the board is 17 the sole authority in determining the amount of creditable 18 service qualified under this section and the amount paid to 19 the retirement system under subsections(2) and (3).

(6) If a member who has creditable service in the teachers' retirement system dies before he qualifies this service in the public employees' retirement system and if the service credits from both systems, when combined, entitle his beneficiary to a death benefit, the payment of the death benefit is the liability of the public employees' retirement system. Before payment of the death benefit, the
 teachers' retirement board must transfer to the public
 employees' retirement system the contributions necessary to
 qualify this service in the public employees' retirement
 system as provided in subsections (2) and (3)."

Section 2. Section 19-4-409, MCA, is amended to read:

"19-4-409. Transfer of service credits from public 7 employees' retirement system. (1) A member may at any time 8 before his retirement make a written election with the 9 retirement board to qualify in the teachers' retirement 10 system all of his creditable service in the public 11 employees' retirement system. The amount that must be paid 12 to the retirement system to qualify this service under this 13 section is the sum of subsections (2) and (3). 14

(2) The public employees' retirement system shall 15 transfer to the teachers' retirement system an amount equal 16 to 5%-of-the-final-compensationy--as--defined--in--19-3-1047 17 earned--by--the--member--multiplied--by--the--total-years-of 18 creditable-service-being-transferred-plus--accrued--interest 19 from--the--date--of-termination-until-payment-is-received-by 20 the-retirement-system;-based-on-the-interest-tables--in--use 21 by--the--public--employees'-retirement-system--If-the-member 22 had-less-than-3-full-years-of-membership-service7-the--final 23 compensation--must--be-based-on-the-compensation-reported-to 24 the-public-employees--retirement-board-by-the--employer 72% 25

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3 accumulated contributions at the time he terminated active 3 19-4-685-4 membership under 19-3-406 plus accrued interest from the 4 5 date of termination until payment is received by the 5 6 retirement system, based on the interest tables in use by б 7 the public employees' retirement system. 7 8 tb)--If--the--sum--of-the-rates-provided-in-19-4-602-and 8 9 19-4-605-exceeded-the-sum-of-the-rates-provided-in--19-3-701 9 10 and--19-3-801--at--the--time--the-employee-terminated-active 10 11 membership-under-19-3-4067-the-employee-shall-pay-an--amount 11 12 in-addition-to-that-required-in-subsection-(3)(a)-to-receive 12 13 full--credit--for--the--service-transferred--This-additional 13 14 amount-is-equal-to: 14 15 tit--the-final-compensation-as-determined-in--subsection 15 16 (2)--multiplied--by--the--total--years-of-creditable-service 16 17 being-transferred-multiplied-by-the-difference--between--the 17 18 sum--of--the-rates-provided-in-19-4-682-and-19-4-685-and-the 18 19 sum-of-the-rates-provided-in-19-3-701-and-19-3-801;-plus 19 20 (ii)-accrued-interest-from-the-date-of-termination-until 20 21 payment-is-received-by-the-retirement-system,-based--on--the 21 22 interest-tables-in-use-by-the-retirement-system-22 23 fc}--If--the-member-chooses-not-to-make-the-contribution 23 24 as-provided-in-this-section,-he-shall-receive-credit-for-the 24 25 service--transferredy--based--on--the--ratio---between---the 25

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of the amount determined in accordance with subsection (3).

(3) tay The employee shall pay an amount equal to his

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1 retirement-systems1-employee-and-employer-contribution-rates
2 provided---for---under--19-3-7017--19-3-8017--19-4-6027--and
3 19-4-6057

4 (4) A member who qualifies service from the public 5 employees' retirement system in the teachers' retirement 6 system must complete 5 years of membership service in the 7 teachers' retirement system to qualify or purchase military 8 service, out-of-state teaching service, employment while on 9 leave, and private school employment.

10 (5) The retirement board shall determine the service
 11 credits that may be transferred.

12 (6) If a member who has creditable service in the 13 public employees' retirement system dies before he qualifies 14 this service in the teachers' retirement system and if his 15 service credits from both systems, when combined, entitle 16 his beneficiary to a death benefit, the payment of the death 17 benefit is the liability of the teachers' retirement system. 18 Before payment of the death benefit, the public employees' 19 retirement board must transfer to the teachers' retirement 20 system the contributions necessary to qualify this service 21 in the teachers' retirement system as provided in 22 subsections(2) and (3).

23 (7) If the retirement board determines that an
24 individual's membership was erroneously classified, the
25 member's accumulated contributions and service must be

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1 transferred to the teachers' retirement system and any 2 employee and employer contributions due as calculated in 3 19-4-602 and 19-4-605 are the liability of the employee and 4 the employing entity where the error occurred, 5 respectively."

6 <u>NEW SECTION.</u> Section 3. Retroactive applicability. 7 [This act] applies retroactively, within the meaning of 8 1-2-109, to service credits transferred between the public 9 employees' retirement system and the teachers' retirement 10 system on and after October 1, 1989.

11 <u>NEW SECTION.</u> Section 4. Effective date. [This act] is 12 effective upon passage and approval.

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LC 0842/01

INTRODUCED BY Danko Dunie Vaugh 1 2 ٦

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE OPEN-RANGE 4 FENCING REQUIREMENTS BY REQUIRING THE DEPARTMENT OF HIGHWAYS 5 TO FENCE THE RIGHT-OF-WAY OF MONTANA HIGHWAYS DESIGNATED AS 6 U.S. HIGHWAYS; PROHIBITING THE GRAZING OF LIVESTOCK ON 7 RIGHTS-OF-WAY OF MONTANA'S U.S. HIGHWAYS; INCREASING THE 8 PENALTY FOR GRAZING LIVESTOCK ON HIGHWAYS; AND AMENDING 9 SECTIONS 60-7-103, 60-7-201, AND 60-7-203, MCA." 10

11

WHEREAS, the tourism industry is rapidly becoming a 12 primary factor in the Montana economy; and 13

WHEREAS, tourists mainly use either the interstate 14 highway system or the highway system designated as "U.S. 15 Highways" when traveling between tourism-related attractions 16 17 in Montana: and

WHEREAS, most out-of-state and foreign tourists are 18 unaware of the tradition of open range in Montana and are 19 20 therefore unprepared to encounter livestock grazing on highways in open-range areas, leading to an increase in the 21 22 probability of accidents; and

WHEREAS, much of the U.S. highway system in Montana 23 passes through open range; and 24

WHEREAS, the right-of-way of the interstate highway 25

Montana Legislative Council

3 system is required to be fenced, but the right-of-way of the 2

- U.S. highway system is not.
- 3

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 4

Section 1. Section 60-7-103, MCA, is amended to read: 5

6 "60-7-103. Department to fence right-of-way through 7 open--range. (1) The department shall fence the right-of-way of any part of the state highway system that is constructed 8 9 or reconstructed after July 1, 1969, through open range where livestock present a hazard to the safety of the 10 motorist. Where a fence is constructed, adequate stock gates 11 or stock passes, as necessary, shall must be provided to 12 13 make land on either side of the highway usable for livestock 14 purposes.

15 (2) The department shall fence the right-of-way of each federal-aid primary highway in Montana that is designated as 16 17 a U.S. highway. Where a fence is constructed, adequate stock 18 gates or stock passes, as necessary, must be provided to 19 make land on either side of the highway usable for livestock 20 purposes. 21 (2) (3) The department shall erect a fence in every high-hazard area as proportly as possible, and the cost of 22

such the construction is an expenditure for the enforcement 23 24 of federal-aid highway safety programs. Gates, stock underpasses, water facilities, and cattle guards may be 25

> INTRODUCED BILL #8 206 -2-

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1 installed where necessary to make the land on either side of 2 the highway usable for livestock purposes or where a public 3 right-of-way intersects the state highway."

Section 2. Section 60-7-201, MCA, is amended to read: 5 "60-7-201, Grazing livestock on highway unlawful, A 6 person who owns or possesses livestock may not permit the 7 livestock to graze, remain upon, or occupy a part of the right-of-way of: 8

4

9 (1) a state highway running through cultivated areas or 10 a part of the fenced right-of-way of a state highway if in 11 either case the highway has been designated by agreement 12 between the highway commission and the secretary of 13 transportation as a part of the national system of 14 interstate and defense highways; or

15 (2) a state highway designated by agreement between the 16 highway commission and the secretary of transportation as a 17 part of the federal-aid primary system, except as provided 18 in 60-7-202; or

19 (3) a federal-aid primary highway that is designated as 20 a U.S. highway and required to be fenced under 60-7-103(2)."

21 Section 3. Section 60-7-203, MCA, is amended to read: 22 "60-7-203. Penalty. A person who violates 60-7-201 is 23 guilty of a misdemeanor and is subject to a fine of not less 24 than \$5 \$100 or more than \$100 \$250 for each offense. In a 25 civil action for damages caused by collision between a motor 1 vehicle and a domestic animal or animals on a highway 2 brought by the owner, driver, or occupant of a motor vehicle 3 or by their personal representatives or assigns or by the 4 owner of livestock, there is no presumption or inference 5 that the collision was due to negligence on the part of the 6 owner or the person in possession of the livestock or the driver or owner of the vehicle." 7

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-End-

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STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for <u>HB0206</u>, <u>as introduced</u>.

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the open-range fencing requirements by requiring the Department of Highways to fence the right-of-way of Montana highways designated as U.S. Highways; prohibiting the grazing of livestock on rights-of-way of Montana's U.S. Highways; and increasing the penalty for grazing livestock on highways.

ASSUMPTIONS:

- 1. All non-fenced miles of rights-of-ways on U.S. highways will be fenced regardless of ownership or current use of land.
- 2. Fence materials will include one stock gate, one cattle guard, 29 farm fence panels and three corner panels per mile for each side of the roadway. Underpasses or overpasses are not considered.
- 3. There will be 1,328 miles of fence completed at an average cost of \$7,454 per mile.
- 4. The current policy whereby landowners are required to maintain fences along roadways will remain unchanged.
- 5. Installation of fences will be performed through contracted services as a continuing appropriation with all cost encumbered during FY92.

FISCAL IMPACT:

<u>Dept. of Highways:</u>	FY 92			FY 93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u> Operating Costs	0	9,898,912	9,898,912	0	0	0
<u>Funding:</u> State Special (02)	0	9,898,912	9,898,912	0	0	0

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

- 1. Increasing the Department of Highways construction and/or maintenance responsibilities will accelerate the depletion of the highway state special revenue fund.
- 2. Fence repair and maintenance cost.

ROD SUNDSTED, BUDGET DIRECTOR DATE Office of Budget and Program Planning

1/22/91

PAULA A. DARKO, PRIMARY SPONSOR

Fiscal Note for <u>HB0206</u>, as introduced.

HB 206