



1 *House* BILL NO. *205*  
 2 INTRODUCED BY *Davis Cassiavola*  
 3 *McCulloch* 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).

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 19-4-101, earned by the member multiplied by the total years

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  
 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 membership, as defined in 19-4-302, 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  
 25 being transferred multiplied by the difference between the



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

~~(c)--If-the-member-chooses-not-to-make-the--contribution  
provided--for--in--this-section, he-shall-receive-credit-for  
the-service-transferred--based--on--the--ratio--between--the  
retirement-systems'-employee-and-employer-contribution-rates  
provided-for-in-19-3-701, 19-3-801, 19-4-602, and 19-4-605.~~

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

(5) Subject to the provisions of 19-3-304, the board is the sole authority in determining the amount of creditable service qualified under this section and the amount paid to 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 employees' retirement system. (1) A member may at any time before his retirement make a written election with the retirement board to qualify in the teachers' retirement system all of his creditable service in the public employees' retirement system. The amount that must be paid to the retirement system to qualify this service under this section is the sum of subsections (2) and (3).

(2) The public employees' retirement system shall transfer to the teachers' retirement system an amount equal to ~~5% of the final compensation,--as--defined--in--19-3-104, earned--by--the--member--multiplied--by--the--total-years-of creditable-service-being-transferred-plus--accrued--interest from--the--date--of-termination-until-payment-is-received-by the-retirement-system, based-on-the-interest-tables--in--use by--the--public--employees'-retirement-system. If-the-member had-less-than-3-full-years-of-membership-service, the--final compensation--must--be-based-on-the-compensation-reported-to the-public-employees'-retirement-board-by-the--employer~~ 72%

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

2 (3) (a) The employee shall pay an amount equal to his  
3 accumulated contributions at the time he terminated active  
4 membership under 19-3-406 plus accrued interest from the  
5 date of termination until payment is received by the  
6 retirement system, based on the interest tables in use by  
7 the public employees' retirement system.

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 19-3-406, 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 (i) ~~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 (ii) ~~accrued interest from the date of termination until~~  
21 ~~payment is received by the retirement system, based on the~~  
22 ~~interest tables in use by the retirement system.~~

23 (c) ~~If the member chooses not to make the contribution~~  
24 ~~as provided in this section, he shall receive credit for the~~  
25 ~~service transferred, based on the ratio between the~~

1 ~~retirement systems' employee and employer contribution rates~~  
2 ~~provided for under 19-3-701, 19-3-801, 19-4-602, and~~  
3 ~~19-4-605.~~

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

LC 0548/01

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 NEW SECTION. **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-

APPROVED BY COMMITTEE  
ON STATE ADMINISTRATION

1 *House* BILL NO. *205*  
2 INTRODUCED BY *Dennis Coakley Daily*  
3 *McCulloch* *Fennell*  
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).

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 ~~19-4-101~~, earned by the member multiplied by the total years

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  
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 membership, as defined in 19-4-302, 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  
25 being transferred multiplied by the difference between the

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-systems'-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).

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)."

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

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

15 (2) The public employees' retirement system shall  
 16 transfer to the teachers' retirement system an amount equal  
 17 to ~~5%-of-the-final-compensation,--as--defined--in--19-3-104,~~  
 18 ~~earned--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%~~

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

2 (3) (a) The employee shall pay an amount equal to his  
3 accumulated contributions at the time he terminated active  
4 membership under 19-3-406 plus accrued interest from the  
5 date of termination until payment is received by the  
6 retirement system, based on the interest tables in use by  
7 the public employees' retirement system.

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 19-3-406, 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 (i) ~~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 (ii) ~~accrued interest from the date of termination until  
21 payment is received by the retirement system, based on the  
22 interest tables in use by the retirement system.~~

23 (c) ~~If the member chooses not to make the contribution  
24 as provided in this section, he shall receive credit for the  
25 service transferred, based on the ratio between the~~

1 ~~retirement systems' employee and employer contribution rates  
2 provided for under 19-3-701, 19-3-801, 19-4-602, and  
3 19-4-605.~~

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



LC 0548/01

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 NEW SECTION. **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-

1 *HOUSE* BILL NO. *205*  
 2 INTRODUCED BY *James Caspianella*  
 3 *McCallister* 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).

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 19-4-101, earned by the member multiplied by the total years

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  
 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 membership, as defined in 19-4-302, 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  
 25 being transferred multiplied by the difference between the

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 ~~(1) 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 systems' 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).

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)."

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

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

15 (2) The public employees' retirement system shall  
 16 transfer to the teachers' retirement system an amount equal  
 17 to 5% of the final compensation, as defined in 19-3-104,  
 18 earned 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 721

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

2 (3) (a) The employee shall pay an amount equal to his  
3 accumulated contributions at the time he terminated active  
4 membership under 19-3-406 plus accrued interest from the  
5 date of termination until payment is received by the  
6 retirement system, based on the interest tables in use by  
7 the public employees' retirement system.

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 19-3-406, 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 (i) ~~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 (ii) ~~accrued interest from the date of termination until  
21 payment is received by the retirement system, based on the  
22 interest tables in use by the retirement system.~~

23 (c) ~~If the member chooses not to make the contribution  
24 as provided in this section, he shall receive credit for the  
25 service transferred, based on the ratio between the~~

1 retirement systems' employee and employer contribution rates  
2 provided for under 19-3-701, 19-3-801, 19-4-602, and  
3 19-4-605.

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

LC 0548/01

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 NEW SECTION. **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-

## HOUSE BILL NO. 205

INTRODUCED BY DAVIS, COCCHIARELLA, DAILY, MCCULLOCH, FARRELL  
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."

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

**Section 1.** Section 19-3-511, MCA, is amended to read:

"19-3-511. **Transfer of service credits from teachers' retirement system.** (1) A member may at any time before his retirement make a written election with the board to qualify in the public employees' retirement system all of his creditable service in the teachers' retirement system. The amount that must be paid to the retirement system to qualify this service under this section is the sum of subsections (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 compensation, as defined in 19-4-101, earned by the member multiplied by the total years

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

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

(b) If the sum of the rates provided in 19-3-701 and 19-3-801 exceeded the sum of the rates provided in 19-4-602 and 19-4-605 at the time the employee terminated active membership, as defined in 19-4-302, the employee shall pay an amount in addition to that required in subsection (3)(a) to receive full credit for the service transferred. This additional amount is equal to:

(i) the final compensation as determined in subsection (2) multiplied by the total years of creditable service being transferred multiplied by the difference between the

REFERENCE 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-19-4-605,-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-systems'-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).

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)."

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

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

15 (2) The public employees' retirement system shall  
 16 transfer to the teachers' retirement system an amount equal  
 17 to ~~5% of the final compensation, as defined in 19-3-104,~~  
 18 ~~earned 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%~~

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

2 (3) (a) The employee shall pay an amount equal to his  
3 accumulated contributions at the time he terminated active  
4 membership under 19-3-406 plus accrued interest from the  
5 date of termination until payment is received by the  
6 retirement system, based on the interest tables in use by  
7 the public employees' retirement system.

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 19-3-406, 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 (i) ~~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 (ii) ~~accrued interest from the date of termination until  
21 payment is received by the retirement system, based on the  
22 interest tables in use by the retirement system.~~

23 (c) ~~If the member chooses not to make the contribution  
24 as provided in this section, he shall receive credit for the  
25 service transferred, based on the ratio between the~~

1 ~~retirement systems' employee and employer contribution rates  
2 provided for under 19-3-701, 19-3-801, 19-4-602, and  
3 19-4-605.~~

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



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 NEW SECTION. **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-

1 House BILL NO. 206  
 2 INTRODUCED BY Marko Donald Vaughn  
 3

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

11  
 12 WHEREAS, the tourism industry is rapidly becoming a  
 13 primary factor in the Montana economy; and

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

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

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

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

1 system is required to be fenced, but the right-of-way of the  
 2 U.S. highway system is not.

3  
 4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

6 "60-7-103. Department to fence right-of-way through  
 7 open--range. (1) The department shall fence the right-of-way  
 8 of any part of the state highway system that is constructed  
 9 or reconstructed after July 1, 1969, through open range  
 10 where livestock present a hazard to the safety of the  
 11 motorist. Where a fence is constructed, adequate stock gates  
 12 or stock passes, as necessary, ~~shall~~ must be provided to  
 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  
 16 federal-aid primary highway in Montana that is designated as  
 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  
 22 high-hazard area as promptly as possible, and the cost of  
 23 ~~such~~ the construction is an expenditure for the enforcement  
 24 of federal-aid highway safety programs. Gates, stock  
 25 underpasses, water facilities, and cattle guards may be

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."

4 **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  
 8 right-of-way of:

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  
 7 driver or owner of the vehicle."

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0206, as introduced.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:

Dept. of Highways:	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.

 1-21-91  
 ROD SUNDSTED, BUDGET DIRECTOR DATE  
 Office of Budget and Program Planning

 1/22/91  
 PAULA A. DARKO, PRIMARY SPONSOR DATE

Fiscal Note for HB0206, as introduced.**HB 206**