

*Pignich*

House BILL NO. 316

INTRODUCED BY

*Harrington Menahe Jackson*

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A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING CURRENT CREDITABLE SERVICE PROVISIONS OF THE TEACHERS' RETIREMENT SYSTEM; PROVIDING THAT MEMBERS OF THE TEACHERS' RETIREMENT SYSTEM WHO BECAME MEMBERS ON OR AFTER JULY 1, 1989, MAY PURCHASE AT THE ACTUARIAL COST MEMBERSHIP SERVICE FOR CERTAIN SERVICE PERFORMED OUT-OF-STATE, PRIVATE TEACHING SERVICE, EMPLOYMENT WHILE ON LEAVE, AND TIME SPENT ON AN INJURY-RELATED LEAVE; PROVIDING THAT KINDERGARTEN THROUGH GRADE 12 PRIVATE TEACHING SERVICE MUST BE SERVICE AS A CERTIFIED TEACHER; AMENDING SECTIONS 19-20-402, 19-20-403, 19-20-405, 19-20-408, 19-20-411, AND 19-20-412, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 19-20-402, MCA, is amended to read:

**"19-20-402. Creditable service for out-of-state public and federal employment.** (1) (a) A member who ~~became a member before July 1, 1989,~~ has 5 years of active membership service and who contributes to the retirement system as provided in subsection (2) may ~~apply for~~ receive creditable service in the retirement system for out-of-state employment service that would have been acceptable under the provisions of this chapter if the service had been performed in the state of Montana.

(b) If the member contributed to a public retirement plan, other than social security, while performing the out-of-state service, ~~he must~~ the member shall roll the member's contributions over into the retirement system or must receive a refund of his the member's contributions for the ~~out-of-state~~ service before qualifying service under this section. ~~The member must be awarded creditable service, conditional upon his completing 5 years of active membership in Montana, for the number of years, not exceeding 5, that the retirement board determines to be creditable service, if he contributes to the retirement system as provided in subsection (2).~~

(c) For the purpose of this section, out-of-state employment ~~includes~~ means service performed:

- (i) within the United States in a federal or other public school or institution; and
- (ii) outside the United States in a federal or other public or private school or institution if the service

1 ~~would have been acceptable under this chapter if performed in the state of Montana.~~

2 (2) (a) ~~Except as provided in subsection (2)(b), to~~ To qualify the service under this section described  
 3 in subsection (1)(c)(i), the a member who became a member before July 1, 1989, must shall contribute for  
 4 each year of service to be qualified an amount equal to the combined employer and employee contribution  
 5 for his the member's first full year's teaching salary earned in Montana after his the member's out-of-state  
 6 service for each year of creditable service, plus interest. The interest must be paid at the rate that the  
 7 contribution would have earned had the contribution been ~~in his account upon the completion of 5 years~~  
 8 ~~of membership service in Montana~~ paid when the member became eligible to purchase out-of-state service.  
 9 The contribution rate must be the rate in effect at the time ~~he~~ the member is eligible for the service.

10 (b) ~~To qualify the service described in (1)(c)(ii) performed outside the United States in a federal or~~  
 11 ~~other public or private school or institution, the a member who became a member before July 1, 1989,~~  
 12 ~~must shall~~ contribute for each year of service to be qualified an amount equal to the combined employer  
 13 and employee contribution for his the member's first full year's teaching salary earned in Montana after his  
 14 the member's out-of-state service or after July 1, 1989, whichever date is later, plus interest ~~at the rate~~  
 15 ~~the contribution would have earned had the contribution been in his account from the date he was eligible~~  
 16 ~~to qualify the service.~~ The contribution rate must be the rate in effect at the time ~~he~~ the member is eligible  
 17 to qualify the service or the rate in effect on July 1, 1989, whichever date is later.

18 (c) For each year of service to be credited under this section, a member who became a member  
 19 on or after July 1, 1989, shall contribute the actuarial cost of the service based on the most recent  
 20 valuation of the system.

21 (3) The interest on contributions required under subsection (2) must be paid at the rate that the  
 22 contributions would have earned had the contributions been in the member's account from the date the  
 23 member was eligible to qualify the service.

24 (4) The contributions and interest required under subsection (2) may be made in a lump-sum  
 25 payment or in installments as agreed between the member and the retirement board.

26 (5) The provisions of 19-20-405 apply to creditable service purchased under this section."

27

28 **Section 2.** Section 19-20-403, MCA, is amended to read:

29 "19-20-403. **Creditable service for employment while on leave.** (1) (a) A member ~~with 5 years or~~  
 30 ~~more of creditable service in the retirement system who became a member before July 1, 1989, who is~~

1 eligible under subsection (1)(b) and who contributes to the retirement system as provided in subsection (2)  
 2 may apply for receive up to 2 years of creditable service for employment while on leave. ~~If he contributes~~  
 3 ~~to the retirement system as provided in subsection (2), the member must be awarded creditable service in~~  
 4 ~~an amount not exceeding 2 years as determined by the board, conditional upon his having~~

5 (b) To be eligible to qualify service under this section, a member must have at least 5 years of  
 6 membership service in the retirement system, must have been a member prior to his the leave, and upon  
 7 his completing must have completed 1 year of active membership in Montana subsequent to his the  
 8 member's return.

9 (2) (a) To qualify service under this section For each year of service to be credited, the a member  
 10 who became a member before July 1, 1989, must shall contribute for each year of service to be qualified  
 11 an amount equal to the combined employer and employee contributions for his the member's first full year's  
 12 teaching salary earned in Montana after his the member's return from leave for each year of creditable  
 13 service, plus interest at the rate the contribution would have earned had the contribution been in his  
 14 account. ~~The contribution rate must be the rate in effect at the time he is eligible for the service.~~

15 (b) For each year of service to be credited under this section, a member who became a member  
 16 on or after July 1, 1989, shall contribute the actuarial cost of the service based on the most recent  
 17 actuarial valuation of the system.

18 (3) The interest on contributions required under subsection (2) must be paid at the rate that the  
 19 contributions would have earned had the contributions been in the member's account from the date the  
 20 member was eligible to qualify the service.

21 (4) The contribution contributions and interest may be made in a lump-sum payment or in  
 22 installments as agreed between the member and the retirement board.

23 (5) The provisions of 19-20-405 apply to creditable service purchased under this section."  
 24

25 **Section 3.** Section 19-20-405, MCA, is amended to read:

26 **"19-20-405. Limit on creditable service which can that may be awarded.** The total creditable  
 27 service for ~~out of state teaching, employment while on leave, employment with the Montana cooperative~~  
 28 ~~extension service, and active service in the armed forces of the United States or the American red cross~~  
 29 ~~or merchant marine~~ service purchased under 19-20-402, 19-20-403, 19-20-404, 19-20-408, 19-20-410,  
 30 and 19-20-412 may not exceed 5 years."

1           **Section 4.** Section 19-20-408, MCA, is amended to read:

2           "**19-20-408. Creditable service for employment in private schools.** (1) (a) A person applying for  
3 member who has at least 5 years of membership before July 1, 1989, service and who contributes to the  
4 retirement system as provided in subsection (2) may also apply for receive up to 5 years of creditable  
5 service in the retirement system for employment service within the United States in a private elementary,  
6 secondary, or postsecondary educational institution.

7           (b) Employment service to be credited must be of an instructional nature, ~~or be employment as an~~  
8 ~~administrative officer,~~ or as a member of the scientific staff. If the employment is for teaching kindergarten  
9 through grade 12, the service must have been performed as a certified teacher. ~~Employment service does~~  
10 ~~not include students~~

11           (c) Members may not receive credit for service as a student employed by a private elementary,  
12 secondary, or postsecondary educational institution. ~~The person shall be awarded creditable service,~~  
13 ~~conditional upon his completing 5 years of active membership in the retirement system, for the number of~~  
14 ~~years, not exceeding 5, that the retirement board determines to be creditable service, if he contributes~~

15           (2) (a) For each year of service to be credited, a member who became a member before July 1,  
16 1989, shall contribute to the retirement system an amount equal to the combined employer and employee  
17 contribution for ~~his~~ the member's first full year's teaching salary earned after becoming a member of the  
18 retirement system or after returning to the retirement system, whichever is later, ~~for each year of creditable~~  
19 ~~service plus interest at the rate the contribution would have earned had the contribution been in his account~~  
20 ~~upon the completion of 5 years of membership service.~~ The contribution rate ~~shall~~ must be that rate in  
21 effect at the time ~~he~~ the member is eligible ~~for such~~ to credit the service.

22           (b) For each year of service to be credited under this section, a member who became a member  
23 on or after July 1, 1989, shall contribute the actuarial cost of the service based on the most recent  
24 valuation of the system.

25           (3) The interest on contributions required under subsection (2) must be paid at the rate that the  
26 contributions would have earned had the contributions been in the member's account from the date the  
27 member was eligible to qualify the service.

28           (4) The contributions and interest may be made in lump-sum payment or in installments as agreed  
29 between the person and the retirement board.

30           (5) The provisions of 19-20-405 apply to creditable service purchased under this section."

1           **Section 5.** Section 19-20-411, MCA, is amended to read:

2           "**19-20-411. Absence ~~due to~~ because of employment-related injury.** (1) ~~(a) Subject to the limitation~~  
 3 ~~in subsection (5), time during which a member is absent because of an injury related to employment~~  
 4 ~~covered by the retirement system that entitles him to workers' compensation payments may be qualified~~  
 5 ~~under the retirement system if the member was a member of the retirement system before July 1, 1989~~  
 6 (6), a member who is absent because of an injury entitling the member to workers' compensation payments  
 7 may qualify as creditable service the time during which the member is absent. To qualify this service, a  
 8 member shall contribute to the retirement system, as provided in subsection (2) upon ~~his~~ the member's  
 9 return to contributing membership service<sub>7</sub>.

10           (2) (a) A member who became a member before July 1, 1989, shall contribute an amount equal to:

11           (i) ~~the contributions which would have been made by him had he~~ that the member would have  
 12 made had the member not been absent, based on ~~his~~ the member's compensation at the commencement  
 13 of ~~his~~ the absence;

14           (ii) ~~the interest, which that~~ that begins to accrue 1 year from the date ~~he~~ that the member returns to  
 15 covered employment; and

16           (iii) ~~the interest not paid by the employer under subsection (1)(b)~~ (3).

17           (b) A member who became a member on or after July 1, 1989, shall pay the actuarial cost of the  
 18 service based on the most recent valuation of the system.

19           ~~(b)(3) Whenever~~ When a member elects to contribute under subsection ~~(1)(a)~~ (2)(a), the employer  
 20 shall contribute an amount equal to the contributions ~~which that~~ that would have been made by the employer  
 21 had the member not been absent, based on the member's compensation at the commencement of ~~his~~ the  
 22 absence. The employer may contribute an amount equal to the interest accruing on the employer's  
 23 contributions calculated in the same manner as interest on the employee's contributions under subsection  
 24 ~~(1)(a)~~ (2)(a). If the employer elects not to pay the interest, this amount must be paid by the employee.

25           ~~(2)(4)~~ (4) A member shall file with the retirement board a written notice of ~~his~~ the member's intent to  
 26 pay the contributions under subsection ~~(1)(a)~~ (2).

27           ~~(3)(5)~~ (5) Payment of the employee's contributions ~~due because of the period of absence~~  
 28 in one sum at the time of filing the notice or ~~on an installment basis~~ in installments before termination of  
 29 covered employment as agreed between the board and the member.

30           ~~(4)(6)~~ (6) A member absent as provided in subsection (1)~~(a)~~ loses ~~his~~ the right to contribute under this

1 section if ~~all of his~~ the member's accumulated normal contributions are refunded under 19-20-603.

2 ~~(5)(7)~~ The maximum amount of membership service allowable under this section is 2 years."

3

4 **Section 6.** Section 19-20-412, MCA, is amended to read:

5 **"19-20-412. Election to purchase additional service.** (1) (a) Except as provided in subsection (3),  
6 a member with 5 years or more of creditable service may make a written election with the retirement board  
7 to purchase, for the purpose of calculating ~~his~~ the member's retirement allowance, 1 year of additional  
8 service for:

9 (i) each 5 years of service on which contributions have been made as required under the provisions  
10 of 19-20-602; and

11 (ii) each 5 years of membership service as defined in Title 19, chapter 3, for which contributions  
12 have been made as required under the provisions of 19-20-409.

13 (b) A maximum of 5 years of additional service may be purchased under this section. A part-time  
14 member may purchase additional service on a prorated basis.

15 (2) (a) To purchase additional service under this section, a member shall contribute, in a lump-sum  
16 payment or in installments as agreed upon by the member and the retirement board, an amount equal to:

17 (i) the combined employer and employee rate on July 1, 1989, or the combined rate in effect at  
18 the time ~~he~~ the member is eligible to purchase the service, whichever date is later, multiplied by ~~his~~ the  
19 member's earned compensation as provided in subsection (2)(b); and

20 (ii) interest at a rate of 8% compounded annually from July 1, 1989, or from the date at which ~~he~~  
21 the member is eligible to purchase the service, whichever date is later.

22 (b) The earned compensation used in calculating the cost of purchasing additional service under  
23 this section is:

24 (i) for the first year of service purchased, the member's earned compensation for the 1988-89  
25 school year or for ~~his~~ the member's fifth year of service, whichever year is later;

26 (ii) for the second year of service purchased, the member's earned compensation for the 1988-89  
27 school year or for ~~his~~ the member's 10th year of service, whichever year is later;

28 (iii) for the third year of service purchased, the member's earned compensation for the 1988-89  
29 school year or for ~~his~~ the member's 15th year of service, whichever year is later;

30 (iv) for the fourth year of service purchased, the member's earned compensation for the 1988-89

1 school year or for ~~his~~ the member's 20th year of service, whichever year is later; and

2 (v) for the fifth year of service purchased, the member's earned compensation for the 1988-89  
3 school year or for ~~his~~ the member's 25th year of service, whichever year is later.

4 (3) ~~On or after July 1, 1989, a~~ A member who became a member prior to July 1, 1989, and who  
5 is eligible to purchase creditable service under 19-3-504, 19-3-510, 19-3-512, 19-3-513, 19-20-402,  
6 19-20-403, 19-20-408, 19-20-410, or 19-20-411 may not purchase additional service under this section  
7 unless ~~he~~ the member elects in writing to:

8 (a) waive ~~his~~ eligibility to purchase creditable service under sections referred to in subsection (3);  
9 and

10 (b) apply the accumulated contributions made under sections referred to in subsection (3) to the  
11 cost of additional service purchased under this section.

12 (4) Additional service purchased under this section may not be used to qualify a member for service  
13 retirement."

14

15 NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 1995.

16

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0316, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act clarifying current creditable service purchase provisions of the Teachers' Retirement System.

ASSUMPTIONS:


1. Members who became members of the Teachers' Retirement System before July 1, 1989, will continue to be eligible to purchase the same type and number of years of creditable service as under current law.
2. Members who became members of the Teachers' Retirement System after July 1, 1989, will have new rights to purchase additional service for: out-of-state teaching, private teaching, service while on leave, and time spent on an injury-related leave. Members after July 1, 1989, will pay the actuarial cost to purchase additional service; therefore, the purchase will not create any unfunded liabilities to the Teachers' Retirement System.
3. The computer system enhancement necessary cost to implement these provisions will not exceed \$3,600.

FISCAL IMPACT:

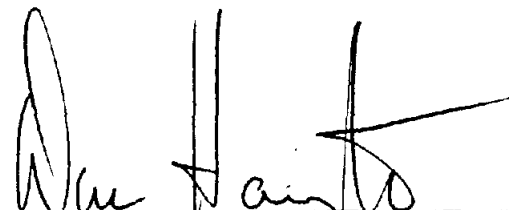
<u>Expenditures:</u>	<u>FY96</u>	<u>FY97</u>
TRS:	<u>Difference</u>	<u>Difference</u>
Operating Expenses (09)	\$3,600	0

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Increased benefit payments would be fully funded on an actuarial basis by service purchases.

 1-27-95

DAVE LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning



DAN HARRINGTON, PRIMARY SPONSOR      DATE

Fiscal Note for HB0316, as introduced

**HB 316**



## 1 HOUSE BILL NO. 316

2 INTRODUCED BY HARRINGTON, MENAHAN, JACOBSON, LYNCH, PIPINICH

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING CURRENT CREDITABLE SERVICE PROVISIONS OF  
5 THE TEACHERS' RETIREMENT SYSTEM; PROVIDING THAT MEMBERS OF THE TEACHERS' RETIREMENT  
6 SYSTEM WHO BECAME MEMBERS ON OR AFTER JULY 1, 1989, MAY PURCHASE AT THE ACTUARIAL  
7 COST MEMBERSHIP SERVICE FOR CERTAIN SERVICE PERFORMED OUT-OF-STATE, PRIVATE TEACHING  
8 SERVICE, EMPLOYMENT WHILE ON LEAVE, AND TIME SPENT ON AN INJURY-RELATED LEAVE;  
9 PROVIDING THAT KINDERGARTEN THROUGH GRADE 12 PRIVATE TEACHING SERVICE MUST BE  
10 SERVICE AS A CERTIFIED TEACHER; AMENDING SECTIONS 19-20-402, 19-20-403, 19-20-405,  
11 19-20-408, 19-20-411, AND 19-20-412, MCA; AND PROVIDING AN EFFECTIVE DATE."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:14  
15 **Section 1.** Section 19-20-402, MCA, is amended to read:

16 **"19-20-402. Creditable service for out-of-state public and federal employment.** (1) (a) A member  
17 who ~~became a member before July 1, 1989,~~ has 5 years of active membership service, WHO HAS  
18 COMPLETED 1 FULL YEAR OF ACTIVE MEMBERSHIP IN MONTANA SUBSEQUENT TO THE MEMBER'S  
19 OUT-OF-STATE SERVICE, and who contributes to the retirement system as provided in subsection (2) may  
20 ~~apply for~~ receive creditable service in the retirement system for out-of-state employment service that would  
21 have been acceptable under the provisions of this chapter if the service had been performed in the state  
22 of Montana.

23 (b) If the member contributed to a public retirement plan, other than social security, while  
24 performing the out-of-state service, ~~he must~~ the member shall roll the member's contributions over into the  
25 retirement system or must receive a refund of ~~his~~ the member's contributions for the ~~out-of-state~~ service  
26 before qualifying service under this section. ~~The member must be awarded creditable service, conditional~~  
27 ~~upon his completing 5 years of active membership in Montana, for the number of years, not exceeding 5,~~  
28 ~~that the retirement board determines to be creditable service, if he contributes to the retirement system as~~  
29 ~~provided in subsection (2).~~

30 (b) (c) For the purpose of this section, out-of-state employment ~~includes~~ means service performed;

1 (i) within the United States in a federal or other public school or institution; and

2 (ii) outside the United States in a federal or other public or private school or institution ~~if the service~~  
3 ~~would have been acceptable under this chapter if performed in the state of Montana.~~

4 ~~(2) (a) Except as provided in subsection (2)(b), to~~ To qualify the service under this section described  
5 in subsection (1)(c)(i), the a member who became a member before July 1, 1989, must shall contribute for  
6 each year of service to be qualified an amount equal to the combined employer and employee contribution  
7 for his the member's first full year's teaching salary earned in Montana after his the member's out-of-state  
8 service ~~for each year of creditable service,~~ plus interest. ~~The interest must be paid at the rate that the~~  
9 ~~contribution would have earned had the contribution been in his account upon the completion of 5 years~~  
10 ~~of membership service in Montana paid when the member became eligible to purchase out of state service.~~

11 The contribution rate must be the rate in effect at the time ~~he~~ the member is eligible for the service.

12 (b) ~~To qualify the service described in (1)(c)(ii) performed outside the United States in a federal or~~  
13 ~~other public or private school or institution, the a member who became a member before July 1, 1989,~~  
14 ~~must shall~~ contribute for each year of service to be qualified an amount equal to the combined employer  
15 and employee contribution for his the member's first full year's teaching salary earned in Montana after his  
16 the member's out-of-state service or after July 1, 1989, whichever date is later, plus interest ~~at the rate~~  
17 ~~the contribution would have earned had the contribution been in his account from the date he was eligible~~  
18 ~~to qualify the service.~~ The contribution rate must be the rate in effect at the time ~~he~~ the member is eligible  
19 to qualify the service or the rate in effect on July 1, 1989, whichever date is later.

20 (c) For each year of service to be credited under this section, a member who became a member  
21 on or after July 1, 1989, shall contribute the actuarial cost of the service based on the most recent  
22 valuation of the system.

23 (3) The interest on contributions required under subsection (2)(A) must be paid at the rate that the  
24 contributions would have earned had the contributions been in the member's account from the date the  
25 member was eligible to qualify the service.

26 (4) The contributions and interest required under subsection (2) may be made in a lump-sum  
27 payment or in installments as agreed between the member and the retirement board.

28 (5) The provisions of 19-20-405 apply to creditable service purchased under this section."

29

30 **Section 2.** Section 19-20-403, MCA, is amended to read:

1           **"19-20-403. Creditable service for employment while on leave.** (1) ~~(a) A member with 5 years or~~  
 2 ~~more of creditable service in the retirement system who became a member before July 1, 1989, who is~~  
 3 ~~eligible under subsection (1)(b) and who contributes to the retirement system as provided in subsection (2)~~  
 4 ~~may apply for receive up to 2 years of~~ creditable service for employment while on leave. ~~If he contributes~~  
 5 ~~to the retirement system as provided in subsection (2), the member must be awarded creditable service in~~  
 6 ~~an amount not exceeding 2 years as determined by the board, conditional upon his having~~

7           **(b) To be eligible to qualify service under this section, a member must have at least 5 years of**  
 8 **membership service in the retirement system, must have been a member prior to his the leave, and upon**  
 9 **his completing must have completed 1 year of active membership in Montana subsequent to his the**  
 10 **member's return.**

11           **(2) (a) To qualify service under this section For each year of service to be credited, the a member**  
 12 **who became a member before July 1, 1989, must shall contribute for each year of service to be qualified**  
 13 **an amount equal to the combined employer and employee contributions for his the member's first full year's**  
 14 **teaching salary earned in Montana after his the member's return from leave for each year of creditable**  
 15 **service, plus interest at the rate the contribution would have earned had the contribution been in his**  
 16 **account. The contribution rate must be the rate in effect at the time he is eligible for the service.**

17           **(b) For each year of service to be credited under this section, a member who became a member**  
 18 **on or after July 1, 1989, shall contribute the actuarial cost of the service based on the most recent**  
 19 **actuarial valuation of the system.**

20           **(3) The interest on contributions required under subsection (2)(A) must be paid at the rate that the**  
 21 **contributions would have earned had the contributions been in the member's account from the date the**  
 22 **member was eligible to qualify the service.**

23           **(4) The contribution contributions and interest** may be made in a lump-sum payment or in  
 24 installments as agreed between the member and the retirement board.

25           **(5) The provisions of 19-20-405 apply to creditable service purchased under this section."**

27           **Section 3.** Section 19-20-405, MCA, is amended to read:

28           **"19-20-405. Limit on creditable service which can that may be awarded.** The total creditable  
 29 service for ~~out of state teaching, employment while on leave, employment with the Montana cooperative~~  
 30 ~~extension service, and active service in the armed forces of the United States or the American red cross~~

1 ~~or merchant marine service purchased under 19-20-402, 19-20-403, 19-20-404, 19-20-408, 19-20-410,~~  
 2 ~~and 19-20-412 may not exceed 5 years."~~

3

4 **Section 4.** Section 19-20-408, MCA, is amended to read:

5 **"19-20-408. Creditable service for employment in private schools.** (1) (a) A person applying for  
 6 member who has at least 5 years of membership before July 1, 1989, service, WHO HAS COMPLETED 1  
 7 FULL YEAR OF ACTIVE MEMBERSHIP SUBSEQUENT TO THE MEMBER'S PRIVATE SCHOOL  
 8 EMPLOYMENT, and who contributes to the retirement system as provided in subsection (2) may also apply  
 9 ~~for~~ receive up to 5 years of creditable service in the retirement system for employment service within the  
 10 United States in a private elementary, secondary, or postsecondary educational institution.

11 (b) Employment service to be credited must be of an instructional nature, ~~or be employment as an~~  
 12 ~~administrative officer,~~ or as a member of the scientific staff. If the employment is for teaching kindergarten  
 13 through grade 12, the service must have been performed as a certified teacher. Employment service does  
 14 ~~not include students~~

15 (c) Members may not receive credit for service as a student employed by a private elementary,  
 16 secondary, or postsecondary educational institution. ~~The person shall be awarded creditable service,~~  
 17 ~~conditional upon his completing 5 years of active membership in the retirement system, for the number of~~  
 18 ~~years, not exceeding 5, that the retirement board determines to be creditable service, if he contributes~~

19 (2) (a) For each year of service to be credited, a member who became a member before July 1,  
 20 1989, shall contribute to the retirement system an amount equal to the combined employer and employee  
 21 contribution for ~~his~~ the member's first full year's teaching salary earned after becoming a member of the  
 22 retirement system or after returning to the retirement system, whichever is later, ~~for each year of creditable~~  
 23 ~~service plus interest at the rate the contribution would have earned had the contribution been in his account~~  
 24 ~~upon the completion of 5 years of membership service.~~ The contribution rate shall must be that rate in  
 25 effect at the time ~~he~~ the member is eligible ~~for such to credit~~ PURCHASE the service.

26 (b) For each year of service to be credited under this section, a member who became a member  
 27 on or after July 1, 1989, shall contribute the actuarial cost of the service based on the most recent  
 28 valuation of the system.

29 (3) The interest on contributions required under subsection (2)(A) must be paid at the rate that the  
 30 contributions would have earned had the contributions been in the member's account from the date the

1 member was eligible to qualify the service.

2 (4) The contributions and interest may be made in lump-sum payment or in installments as agreed  
3 between the person and the retirement board.

4 (5) The provisions of 19-20-405 apply to creditable service purchased under this section."  
5

6 **Section 5.** Section 19-20-411, MCA, is amended to read:

7 "**19-20-411. Absence ~~due to~~ because of employment-related injury.** (1) ~~{a}~~ Subject to the limitation  
8 in subsection ~~(5)~~, ~~time during which a member is absent because of an injury related to employment~~  
9 ~~covered by the retirement system that entitles him to workers' compensation payments may be qualified~~  
10 ~~under the retirement system if the member was a member of the retirement system before July 1, 1989~~  
11 (6), a member who is absent because of an injury entitling the member to workers' compensation payments  
12 may qualify as creditable service the time during which the member is absent. To qualify this service, a  
13 member shall contribute to the retirement system, as provided in subsection (2) upon ~~his~~ the member's  
14 return to contributing membership service,

15 (2) (a) A member who became a member before July 1, 1989, shall contribute an amount equal to:

16 (i) the contributions ~~which would have been made by him had he~~ that the member would have  
17 made had the member not been absent, based on ~~his~~ the member's compensation at the commencement  
18 of ~~his~~ the absence;

19 (ii) the interest, ~~which that~~ begins to accrue 1 year from the date ~~he~~ that the member returns to  
20 covered employment; and

21 (iii) the interest not paid by the employer under subsection ~~(1)(b)~~ (3).

22 (b) A member who became a member on or after July 1, 1989, shall pay the actuarial cost of the  
23 service based on the most recent valuation of the system.

24 ~~(b)(3) Whenever~~ When a member elects to contribute under subsection ~~(1)(a)~~ (2)(a), the employer  
25 shall contribute an amount equal to the contributions ~~which that~~ would have been made by the employer  
26 had the member not been absent, based on the member's compensation at the commencement of ~~his~~ the  
27 absence. The employer may contribute an amount equal to the interest accruing on the employer's  
28 contributions calculated in the same manner as interest on the employee's contributions under subsection  
29 ~~(1)(a)~~ (2)(a). If the employer elects not to pay the interest, this amount must be paid by the employee.

30 ~~(2)(4)~~ A member shall file with the retirement board a written notice of ~~his~~ the member's intent to

1 pay the contributions under subsection ~~(1)(a)~~ (2).

2 ~~(3)(5)~~ Payment of the employee's contributions ~~due because of the period of absence~~ may be made  
3 in one sum at the time of filing the notice or ~~on an installment basis~~ in installments before termination of  
4 covered employment as agreed between the board and the member.

5 ~~(4)(6)~~ A member absent as provided in subsection (1)~~(a)~~ loses ~~his~~ the right to contribute under this  
6 section if ~~all of his~~ the member's accumulated normal contributions are refunded under 19-20-603.

7 ~~(5)(7)~~ The maximum amount of membership service allowable under this section is 2 years."  
8

9 **Section 6.** Section 19-20-412, MCA, is amended to read:

10 **"19-20-412. Election to purchase additional service.** (1) (a) Except as provided in subsection (3),  
11 a member with 5 years or more of creditable service may make a written election with the retirement board  
12 to purchase, for the purpose of calculating ~~his~~ the member's retirement allowance, 1 year of additional  
13 service for:

14 (i) each 5 years of service on which contributions have been made as required under the provisions  
15 of 19-20-602; and

16 (ii) each 5 years of membership service as defined in Title 19, chapter 3, for which contributions  
17 have been made as required under the provisions of 19-20-409.

18 (b) A maximum of 5 years of additional service may be purchased under this section. A part-time  
19 member may purchase additional service on a prorated basis.

20 (2) (a) To purchase additional service under this section, a member shall contribute, in a lump-sum  
21 payment or in installments as agreed upon by the member and the retirement board, an amount equal to:

22 (i) the combined employer and employee rate on July 1, 1989, or the combined rate in effect at  
23 the time ~~he~~ the member is eligible to purchase the service, whichever date is later, multiplied by ~~his~~ the  
24 member's earned compensation as provided in subsection (2)(b); and

25 (ii) interest at a rate of 8% compounded annually from July 1, 1989, or from the date at which ~~he~~  
26 the member is eligible to purchase the service, whichever date is later.

27 (b) The earned compensation used in calculating the cost of purchasing additional service under  
28 this section is:

29 (i) for the first year of service purchased, the member's earned compensation for the 1988-89  
30 school year or for ~~his~~ the member's fifth year of service, whichever year is later;

1 (ii) for the second year of service purchased, the member's earned compensation for the 1988-89  
2 school year or for ~~his~~ the member's 10th year of service, whichever year is later;

3 (iii) for the third year of service purchased, the member's earned compensation for the 1988-89  
4 school year or for ~~his~~ the member's 15th year of service, whichever year is later;

5 (iv) for the fourth year of service purchased, the member's earned compensation for the 1988-89  
6 school year or for ~~his~~ the member's 20th year of service, whichever year is later; and

7 (v) for the fifth year of service purchased, the member's earned compensation for the 1988-89  
8 school year or for ~~his~~ the member's 25th year of service, whichever year is later.

9 (3) ~~On or after July 1, 1989, a~~ A member who became a member prior to July 1, 1989, and who  
10 is eligible to purchase creditable service under 19-3-504, 19-3-510, 19-3-512, 19-3-513, 19-20-402,  
11 19-20-403, 19-20-408, 19-20-410, or 19-20-411 may not purchase additional service under this section  
12 unless ~~he~~ the member elects in writing to:

13 (a) waive ~~his~~ eligibility to purchase creditable service under sections referred to in subsection (3);  
14 and

15 (b) apply the accumulated contributions made under sections referred to in subsection (3) to the  
16 cost of additional service purchased under this section.

17 (4) Additional service purchased under this section may not be used to qualify a member for service  
18 retirement."

19  
20 NEW SECTION. SECTION 7. COORDINATION INSTRUCTION. IF HOUSE BILL NO. 205 IS NOT  
21 PASSED AND APPROVED OR IF IT IS PASSED AND APPROVED BUT DOES NOT CONTAIN A NEW  
22 SECTION PROVIDING THAT A MEMBER OF THE TEACHERS' RETIREMENT SYSTEM MAY ROLL OVER, OR  
23 TRANSFER, THE MEMBER'S CONTRIBUTIONS FROM ANOTHER QUALIFIED RETIREMENT PLAN TO THE  
24 TEACHERS' RETIREMENT SYSTEM, THEN [SECTION 1(1)(B) OF THIS ACT], AMENDING 19-20-402, MUST  
25 READ AS FOLLOWS:

26 "(B) IF THE MEMBER CONTRIBUTED TO A PUBLIC RETIREMENT PLAN, OTHER THAN SOCIAL  
27 SECURITY, WHILE PERFORMING THE OUT-OF-STATE SERVICE, THE MEMBER MUST RECEIVE A REFUND  
28 OF THE MEMBER'S CONTRIBUTIONS FOR THE SERVICE BEFORE QUALIFYING SERVICE UNDER THIS  
29 SECTION."





## 1 HOUSE BILL NO. 316

2 INTRODUCED BY HARRINGTON, MENAHAN, JACOBSON, LYNCH, PIPINICH

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING CURRENT CREDITABLE SERVICE PROVISIONS OF  
5 THE TEACHERS' RETIREMENT SYSTEM; PROVIDING THAT MEMBERS OF THE TEACHERS' RETIREMENT  
6 SYSTEM WHO BECAME MEMBERS ON OR AFTER JULY 1, 1989, MAY PURCHASE AT THE ACTUARIAL  
7 COST MEMBERSHIP SERVICE FOR CERTAIN SERVICE PERFORMED OUT-OF-STATE, PRIVATE TEACHING  
8 SERVICE, EMPLOYMENT WHILE ON LEAVE, AND TIME SPENT ON AN INJURY-RELATED LEAVE;  
9 PROVIDING THAT KINDERGARTEN THROUGH GRADE 12 PRIVATE TEACHING SERVICE MUST BE  
10 SERVICE AS A CERTIFIED TEACHER; AMENDING SECTIONS 19-20-402, 19-20-403, 19-20-405,  
11 19-20-408, 19-20-411, AND 19-20-412, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

14  
15 Section 1. Section 19-20-402, MCA, is amended to read:

16 "19-20-402. **Creditable service for out-of-state public and federal employment.** (1) (a) A member  
17 who ~~became a member before July 1, 1989,~~ has 5 years of active membership service, WHO HAS  
18 COMPLETED 1 FULL YEAR OF ACTIVE MEMBERSHIP IN MONTANA SUBSEQUENT TO THE MEMBER'S  
19 OUT-OF-STATE SERVICE, and who contributes to the retirement system as provided in subsection (2) may  
20 ~~apply for~~ receive creditable service in the retirement system for out-of-state employment service that would  
21 have been acceptable under the provisions of this chapter if the service had been performed in the state  
22 of Montana.

23 (b) If the member contributed to a public retirement plan, other than social security, while  
24 performing the out-of-state service, ~~he must~~ the member shall roll the member's contributions over into the  
25 retirement system or must receive a refund of ~~his~~ the member's contributions for the ~~out-of-state~~ service  
26 before qualifying service under this section. ~~The member must be awarded creditable service, conditional~~  
27 ~~upon his completing 5 years of active membership in Montana, for the number of years, not exceeding 5,~~  
28 ~~that the retirement board determines to be creditable service, if he contributes to the retirement system as~~  
29 ~~provided in subsection (2).~~

30 (b) (c) For the purpose of this section, out-of-state employment ~~includes~~ means service performed:

1           (i) within the United States in a federal or other public school or institution; and

2           (ii) outside the United States in a federal or other public or private school or institution if the service  
3 would have been acceptable under this chapter if performed in the state of Montana.

4           (2) (a) ~~Except as provided in subsection (2)(b), to~~ To qualify the service under this section described  
5 in subsection (1)(c)(i), the a member who became a member before July 1, 1989, must shall contribute for  
6 each year of service to be qualified an amount equal to the combined employer and employee contribution  
7 for his the member's first full year's teaching salary earned in Montana after his the member's out-of-state  
8 service ~~for each year of creditable service, plus interest. The interest must be paid at the rate that the~~  
9 ~~contribution would have earned had the contribution been in his account upon the completion of 5 years~~  
10 ~~of membership service in Montana paid when the member became eligible to purchase out of state service.~~  
11 The contribution rate must be the rate in effect at the time ~~he~~ the member is eligible for the service.

12           (b) ~~To qualify the service described in (1)(c)(ii) performed outside the United States in a federal or~~  
13 ~~other public or private school or institution, the a member who became a member before July 1, 1989,~~  
14 ~~must shall~~ contribute for each year of service to be qualified an amount equal to the combined employer  
15 and employee contribution for his the member's first full year's teaching salary earned in Montana after his  
16 the member's out-of-state service or after July 1, 1989, whichever date is later, plus interest ~~at the rate~~  
17 ~~the contribution would have earned had the contribution been in his account from the date he was eligible~~  
18 ~~to qualify the service.~~ The contribution rate must be the rate in effect at the time ~~he~~ the member is eligible  
19 to qualify the service or the rate in effect on July 1, 1989, whichever date is later.

20           (c) For each year of service to be credited under this section, a member who became a member  
21 on or after July 1, 1989, shall contribute the actuarial cost of the service based on the most recent  
22 valuation of the system.

23           (3) The interest on contributions required under subsection (2)(A) must be paid at the rate that the  
24 contributions would have earned had the contributions been in the member's account from the date the  
25 member was eligible to qualify the service.

26           (4) The contributions and interest required under subsection (2) may be made in a lump-sum  
27 payment or in installments as agreed between the member and the retirement board.

28           (5) The provisions of 19-20-405 apply to creditable service purchased under this section."

29

30           Section 2. Section 19-20-403, MCA, is amended to read:

1           **"19-20-403. Creditable service for employment while on leave.** (1) ~~(a) A member with 5 years or~~  
 2 ~~more of creditable service in the retirement system who became a member before July 1, 1989, who is~~  
 3 ~~eligible under subsection (1)(b) and who contributes to the retirement system as provided in subsection (2)~~  
 4 ~~may apply for receive up to 2 years of creditable service for employment while on leave. If he contributes~~  
 5 ~~to the retirement system as provided in subsection (2), the member must be awarded creditable service in~~  
 6 ~~an amount not exceeding 2 years as determined by the board, conditional upon his having~~

7           (b) To be eligible to qualify service under this section, a member must have at least 5 years of  
 8 membership service in the retirement system, must have been a member prior to his the leave, and upon  
 9 his completing must have completed 1 year of active membership in Montana subsequent to his the  
 10 member's return.

11           ~~(2) (a) To qualify service under this section~~ For each year of service to be credited, the a member  
 12 who became a member before July 1, 1989, must shall contribute for each year of service to be qualified  
 13 an amount equal to the combined employer and employee contributions for his the member's first full year's  
 14 teaching salary earned in Montana after his the member's return from leave for each year of creditable  
 15 service, plus interest at the rate the contribution would have earned had the contribution been in his  
 16 account. The contribution rate must be the rate in effect at the time he is eligible for the service.

17           (b) For each year of service to be credited under this section, a member who became a member  
 18 on or after July 1, 1989, shall contribute the actuarial cost of the service based on the most recent  
 19 actuarial valuation of the system.

20           (3) The interest on contributions required under subsection (2)(A) must be paid at the rate that the  
 21 contributions would have earned had the contributions been in the member's account from the date the  
 22 member was eligible to qualify the service.

23           (4) The contribution contributions and interest may be made in a lump-sum payment or in  
 24 installments as agreed between the member and the retirement board.

25           (5) The provisions of 19-20-405 apply to creditable service purchased under this section."

26  
 27           **Section 3.** Section 19-20-405, MCA, is amended to read:

28           **"19-20-405. Limit on creditable service which can that may be awarded.** The total creditable  
 29 service for ~~out of state teaching, employment while on leave, employment with the Montana cooperative~~  
 30 ~~extension service, and active service in the armed forces of the United States or the American red cross~~

1 ~~or merchant marine service purchased under 19-20-402, 19-20-403, 19-20-404, 19-20-408, 19-20-410,~~  
 2 ~~and 19-20-412~~ may not exceed 5 years."

3

4 **Section 4.** Section 19-20-408, MCA, is amended to read:

5 **"19-20-408. Creditable service for employment in private schools.** (1) (a) A person applying for  
 6 member who has at least 5 years of membership before July 1, 1989, service, WHO HAS COMPLETED 1  
 7 FULL YEAR OF ACTIVE MEMBERSHIP SUBSEQUENT TO THE MEMBER'S PRIVATE SCHOOL  
 8 EMPLOYMENT, and who contributes to the retirement system as provided in subsection (2) may also apply  
 9 for receive up to 5 years of creditable service in the retirement system for employment service within the  
 10 United States in a private elementary, secondary, or postsecondary educational institution.

11 (b) Employment service to be credited must be of an instructional nature, or be employment as an  
 12 administrative officer, or as a member of the scientific staff. If the employment is for teaching kindergarten  
 13 through grade 12, the service must have been performed as a certified teacher. Employment service does  
 14 not include students

15 (c) Members may not receive credit for service as a student employed by a private elementary,  
 16 secondary, or postsecondary educational institution. The person shall be awarded creditable service,  
 17 conditional upon his completing 5 years of active membership in the retirement system, for the number of  
 18 years, not exceeding 5, that the retirement board determines to be creditable service, if he contributes

19 (2) (a) For each year of service to be credited, a member who became a member before July 1,  
 20 1989, shall contribute to the retirement system an amount equal to the combined employer and employee  
 21 contribution for his the member's first full year's teaching salary earned after becoming a member of the  
 22 retirement system or after returning to the retirement system, whichever is later, for each year of creditable  
 23 service plus interest at the rate the contribution would have earned had the contribution been in his account  
 24 upon the completion of 5 years of membership service. The contribution rate shall must be that rate in  
 25 effect at the time he the member is eligible for such to credit PURCHASE the service.

26 (b) For each year of service to be credited under this section, a member who became a member  
 27 on or after July 1, 1989, shall contribute the actuarial cost of the service based on the most recent  
 28 valuation of the system.

29 (3) The interest on contributions required under subsection (2)(A) must be paid at the rate that the  
 30 contributions would have earned had the contributions been in the member's account from the date the

1 member was eligible to qualify the service.

2 (4) The contributions and interest may be made in lump-sum payment or in installments as agreed  
3 between the person and the retirement board.

4 (5) The provisions of 19-20-405 apply to creditable service purchased under this section."  
5

6 **Section 5.** Section 19-20-411, MCA, is amended to read:

7 **"19-20-411. Absence ~~due to~~ because of employment-related injury.** (1) ~~(a) Subject to the limitation~~  
8 ~~in subsection (5), time during which a member is absent because of an injury related to employment~~  
9 ~~covered by the retirement system that entitles him to workers' compensation payments may be qualified~~  
10 ~~under the retirement system if the member was a member of the retirement system before July 1, 1989~~  
11 (6), a member who is absent because of an injury entitling the member to workers' compensation payments  
12 may qualify as creditable service the time during which the member is absent. To qualify this service, a  
13 member shall contribute to the retirement system, as provided in subsection (2) upon ~~his~~ the member's  
14 return to contributing membership service.

15 (2) (a) A member who became a member before July 1, 1989, shall contribute an amount equal to:

16 (i) the contributions ~~which would have been made by him had he~~ that the member would have  
17 made had the member not been absent, based on ~~his~~ the member's compensation at the commencement  
18 of ~~his~~ the absence;

19 (ii) the interest, ~~which that~~ begins to accrue 1 year from the date ~~he~~ that the member returns to  
20 covered employment; and

21 (iii) the interest not paid by the employer under subsection ~~(1)(b)~~ (3).

22 (b) A member who became a member on or after July 1, 1989, shall pay the actuarial cost of the  
23 service based on the most recent valuation of the system.

24 ~~(b)(3) Whenever~~ When a member elects to contribute under subsection ~~(1)(a)~~ (2)(a), the employer  
25 shall contribute an amount equal to the contributions ~~which that~~ would have been made by the employer  
26 had the member not been absent, based on the member's compensation at the commencement of ~~his~~ the  
27 absence. The employer may contribute an amount equal to the interest accruing on the employer's  
28 contributions calculated in the same manner as interest on the employee's contributions under subsection  
29 ~~(1)(a)~~ (2)(a). If the employer elects not to pay the interest, this amount must be paid by the employee.

30 ~~(2)(4)~~ A member shall file with the retirement board a written notice of ~~his~~ the member's intent to

1 pay the contributions under subsection ~~(1)(a)~~ (2).

2 ~~(3)(5)~~ Payment of the employee's contributions ~~due because of the period of absence~~ may be made  
3 in one sum at the time of filing the notice or ~~on an installment basis~~ in installments before termination of  
4 covered employment as agreed between the board and the member.

5 ~~(4)(6)~~ A member absent as provided in subsection (1)~~(a)~~ loses ~~his~~ the right to contribute under this  
6 section if ~~all of his~~ the member's accumulated normal contributions are refunded under 19-20-603.

7 ~~(5)(7)~~ The maximum amount of membership service allowable under this section is 2 years."  
8

9 **Section 6.** Section 19-20-412, MCA, is amended to read:

10 **"19-20-412. Election to purchase additional service.** (1) (a) Except as provided in subsection (3),  
11 a member with 5 years or more of creditable service may make a written election with the retirement board  
12 to purchase, for the purpose of calculating ~~his~~ the member's retirement allowance, 1 year of additional  
13 service for:

14 (i) each 5 years of service on which contributions have been made as required under the provisions  
15 of 19-20-602; and

16 (ii) each 5 years of membership service as defined in Title 19, chapter 3, for which contributions  
17 have been made as required under the provisions of 19-20-409.

18 (b) A maximum of 5 years of additional service may be purchased under this section. A part-time  
19 member may purchase additional service on a prorated basis.

20 (2) (a) To purchase additional service under this section, a member shall contribute, in a lump-sum  
21 payment or in installments as agreed upon by the member and the retirement board, an amount equal to:

22 (i) the combined employer and employee rate on July 1, 1989, or the combined rate in effect at  
23 the time ~~he~~ the member is eligible to purchase the service, whichever date is later, multiplied by ~~his~~ the  
24 member's earned compensation as provided in subsection (2)(b); and

25 (ii) interest at a rate of 8% compounded annually from July 1, 1989, or from the date at which ~~he~~  
26 the member is eligible to purchase the service, whichever date is later.

27 (b) The earned compensation used in calculating the cost of purchasing additional service under  
28 this section is:

29 (i) for the first year of service purchased, the member's earned compensation for the 1988-89  
30 school year or for ~~his~~ the member's fifth year of service, whichever year is later;

1 (ii) for the second year of service purchased, the member's earned compensation for the 1988-89  
2 school year or for ~~his~~ the member's 10th year of service, whichever year is later;

3 (iii) for the third year of service purchased, the member's earned compensation for the 1988-89  
4 school year or for ~~his~~ the member's 15th year of service, whichever year is later;

5 (iv) for the fourth year of service purchased, the member's earned compensation for the 1988-89  
6 school year or for ~~his~~ the member's 20th year of service, whichever year is later; and

7 (v) for the fifth year of service purchased, the member's earned compensation for the 1988-89  
8 school year or for ~~his~~ the member's 25th year of service, whichever year is later.

9 (3) ~~On or after July 1, 1989, a~~ A member who became a member prior to July 1, 1989, and who  
10 is eligible to purchase creditable service under 19-3-504, 19-3-510, 19-3-512, 19-3-513, 19-20-402,  
11 19-20-403, 19-20-408, 19-20-410, or 19-20-411 may not purchase additional service under this section  
12 unless ~~he~~ the member elects in writing to:

13 (a) waive ~~his~~ eligibility to purchase creditable service under sections referred to in subsection (3);  
14 and

15 (b) apply the accumulated contributions made under sections referred to in subsection (3) to the  
16 cost of additional service purchased under this section.

17 (4) Additional service purchased under this section may not be used to qualify a member for service  
18 retirement."

19  
20 **NEW SECTION. SECTION 7. COORDINATION INSTRUCTION. IF HOUSE BILL NO. 205 IS NOT**  
21 **PASSED AND APPROVED OR IF IT IS PASSED AND APPROVED BUT DOES NOT CONTAIN A NEW**  
22 **SECTION PROVIDING THAT A MEMBER OF THE TEACHERS' RETIREMENT SYSTEM MAY ROLL OVER, OR**  
23 **TRANSFER, THE MEMBER'S CONTRIBUTIONS FROM ANOTHER QUALIFIED RETIREMENT PLAN TO THE**  
24 **TEACHERS' RETIREMENT SYSTEM, THEN [SECTION 1(1)(B) OF THIS ACT], AMENDING 19-20-402, MUST**  
25 **READ AS FOLLOWS:**

26 **"(B) IF THE MEMBER CONTRIBUTED TO A PUBLIC RETIREMENT PLAN, OTHER THAN SOCIAL**  
27 **SECURITY, WHILE PERFORMING THE OUT-OF-STATE SERVICE, THE MEMBER MUST RECEIVE A REFUND**  
28 **OF THE MEMBER'S CONTRIBUTIONS FOR THE SERVICE BEFORE QUALIFYING SERVICE UNDER THIS**  
29 **SECTION."**

30

1 NEW SECTION. **Section 8. Effective date.** [This act] is effective July 1, 1995.

2 -END-



## HOUSE BILL NO. 316

INTRODUCED BY HARRINGTON, MENAHAN, JACOBSON, LYNCH, PIPINICH

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING CURRENT CREDITABLE SERVICE PROVISIONS OF THE TEACHERS' RETIREMENT SYSTEM; PROVIDING THAT MEMBERS OF THE TEACHERS' RETIREMENT SYSTEM WHO BECAME MEMBERS ON OR AFTER JULY 1, 1989, MAY PURCHASE AT THE ACTUARIAL COST MEMBERSHIP SERVICE FOR CERTAIN SERVICE PERFORMED OUT-OF-STATE, PRIVATE TEACHING SERVICE, EMPLOYMENT WHILE ON LEAVE, AND TIME SPENT ON AN INJURY-RELATED LEAVE; PROVIDING THAT KINDERGARTEN THROUGH GRADE 12 PRIVATE TEACHING SERVICE MUST BE SERVICE AS A CERTIFIED TEACHER; AMENDING SECTIONS 19-20-402, 19-20-403, 19-20-405, 19-20-408, 19-20-411, AND 19-20-412, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 19-20-402, MCA, is amended to read:

**"19-20-402. Creditable service for out-of-state public and federal employment.** (1) (a) A member who ~~became a member before July 1, 1989,~~ has 5 years of active membership service, WHO HAS COMPLETED 1 FULL YEAR OF ACTIVE MEMBERSHIP IN MONTANA SUBSEQUENT TO THE MEMBER'S OUT-OF-STATE SERVICE, and who contributes to the retirement system as provided in subsection (2) may ~~apply for~~ receive creditable service in the retirement system for out-of-state employment service that would have been acceptable under the provisions of this chapter if the service had been performed in the state of Montana.

(b) If the member contributed to a public retirement plan, other than social security, while performing the out-of-state service, ~~he must~~ the member shall roll the member's contributions over into the retirement system or must receive a refund of ~~his~~ the member's contributions for the ~~out-of-state~~ service before qualifying service under this section. ~~The member must be awarded creditable service, conditional upon his completing 5 years of active membership in Montana, for the number of years, not exceeding 5, that the retirement board determines to be creditable service, if he contributes to the retirement system as provided in subsection (2).~~

(b) (c) For the purpose of this section, out-of-state employment ~~includes~~ means service performed;

1 (i) within the United States in a federal or other public school or institution; and

2 (ii) outside the United States in a federal or other public or private school or institution ~~if the service~~  
3 ~~would have been acceptable under this chapter if performed in the state of Montana.~~

4 (2) (a) ~~Except as provided in subsection (2)(b), to~~ To qualify the service under this section described  
5 in subsection (1)(c)(i), the a member who became a member before July 1, 1989, must shall contribute for  
6 each year of service to be qualified an amount equal to the combined employer and employee contribution  
7 for ~~his~~ the member's first full year's teaching salary earned in Montana after ~~his~~ the member's out-of-state  
8 service ~~for each year of creditable service,~~ plus interest. ~~The interest must be paid at the rate that the~~  
9 ~~contribution would have earned had the contribution been in his account upon the completion of 5 years~~  
10 ~~of membership service in Montana paid when the member became eligible to purchase out of state service.~~  
11 The contribution rate must be the rate in effect at the time ~~he~~ the member is eligible for the service.

12 (b) To qualify the service described in (1)(c)(ii) performed outside the United States in a federal or  
13 ~~other public or private school or institution, the a member who became a member before July 1, 1989,~~  
14 ~~must shall~~ contribute for each year of service to be qualified an amount equal to the combined employer  
15 and employee contribution for ~~his~~ the member's first full year's teaching salary earned in Montana after ~~he~~  
16 the member's out-of-state service or after July 1, 1989, whichever date is later, plus interest ~~at the rate~~  
17 ~~the contribution would have earned had the contribution been in his account from the date he was eligible~~  
18 ~~to qualify the service.~~ The contribution rate must be the rate in effect at the time ~~he~~ the member is eligible  
19 to qualify the service or the rate in effect on July 1, 1989, whichever date is later.

20 (c) For each year of service to be credited under this section, a member who became a member  
21 on or after July 1, 1989, shall contribute the actuarial cost of the service based on the most recent  
22 valuation of the system.

23 (3) The interest on contributions required under subsection (2)(A) must be paid at the rate that the  
24 contributions would have earned had the contributions been in the member's account from the date the  
25 member was eligible to qualify the service.

26 (4) The contributions and interest required under subsection (2) may be made in a lump-sum  
27 payment or in installments as agreed between the member and the retirement board.

28 (5) The provisions of 19-20-405 apply to creditable service purchased under this section."

29

30 **Section 2.** Section 19-20-403, MCA, is amended to read:

1           "19-20-403. **Creditable service for employment while on leave.** (1) (a) A member with 5 years or  
 2 more of creditable service in the retirement system who became a member before July 1, 1989, who is  
 3 eligible under subsection (1)(b) and who contributes to the retirement system as provided in subsection (2)  
 4 may apply for receive up to 2 years of creditable service for employment while on leave. If he contributes  
 5 to the retirement system as provided in subsection (2), the member must be awarded creditable service in  
 6 an amount not exceeding 2 years as determined by the board, conditional upon his having

7           (b) To be eligible to qualify service under this section, a member must have at least 5 years of  
 8 membership service in the retirement system, must have been a member prior to his the leave, and upon  
 9 his completing must have completed 1 year of active membership in Montana subsequent to his the  
 10 member's return.

11           (2) (a) To qualify service under this section For each year of service to be credited, the a member  
 12 who became a member before July 1, 1989, must shall contribute for each year of service to be qualified  
 13 an amount equal to the combined employer and employee contributions for his the member's first full year's  
 14 teaching salary earned in Montana after his the member's return from leave for each year of creditable  
 15 service, plus interest at the rate the contribution would have earned had the contribution been in his  
 16 account. The contribution rate must be the rate in effect at the time he is eligible for the service.

17           (b) For each year of service to be credited under this section, a member who became a member  
 18 on or after July 1, 1989, shall contribute the actuarial cost of the service based on the most recent  
 19 actuarial valuation of the system.

20           (3) The interest on contributions required under subsection (2)(A) must be paid at the rate that the  
 21 contributions would have earned had the contributions been in the member's account from the date the  
 22 member was eligible to qualify the service.

23           (4) The contribution contributions and interest may be made in a lump-sum payment or in  
 24 installments as agreed between the member and the retirement board.

25           (5) The provisions of 19-20-405 apply to creditable service purchased under this section."

26  
 27           **Section 3.** Section 19-20-405, MCA, is amended to read:

28           "19-20-405. **Limit on creditable service which can that may be awarded.** The total creditable  
 29 service for ~~out-of-state teaching, employment while on leave, employment with the Montana cooperative~~  
 30 ~~extension service, and active service in the armed forces of the United States or the American red cross~~

1 ~~or merchant marine~~ service purchased under 19-20-402, 19-20-403, 19-20-404, 19-20-408, 19-20-410,  
 2 and 19-20-412 may not exceed 5 years."

3

4 **Section 4.** Section 19-20-408, MCA, is amended to read:

5 **"19-20-408. Creditable service for employment in private schools.** (1) (a) A person applying for  
 6 member who has at least 5 years of membership before July 1, 1989, service, WHO HAS COMPLETED 1  
 7 FULL YEAR OF ACTIVE MEMBERSHIP SUBSEQUENT TO THE MEMBER'S PRIVATE SCHOOL  
 8 EMPLOYMENT, and who contributes to the retirement system as provided in subsection (2) may also apply  
 9 for receive up to 5 years of creditable service in the retirement system for employment service within the  
 10 United States in a private elementary, secondary, or postsecondary educational institution.

11 (b) Employment service to be credited must be of an instructional nature, or be employment as an  
 12 administrative officer, or as a member of the scientific staff. If the employment is for teaching kindergarten  
 13 through grade 12, the service must have been performed as a certified teacher. Employment service does  
 14 not include students

15 (c) Members may not receive credit for service as a student employed by a private elementary,  
 16 secondary, or postsecondary educational institution. The person shall be awarded creditable service,  
 17 conditional upon his completing 5 years of active membership in the retirement system, for the number of  
 18 years, not exceeding 5, that the retirement board determines to be creditable service, if he contributes

19 (2) (a) For each year of service to be credited, a member who became a member before July 1,  
 20 1989, shall contribute to the retirement system an amount equal to the combined employer and employee  
 21 contribution for his the member's first full year's teaching salary earned after becoming a member of the  
 22 retirement system or after returning to the retirement system, whichever is later, for each year of creditable  
 23 service plus interest at the rate the contribution would have earned had the contribution been in his account  
 24 upon the completion of 5 years of membership service. The contribution rate shall must be that rate in  
 25 effect at the time he the member is eligible for such to credit PURCHASE the service.

26 (b) For each year of service to be credited under this section, a member who became a member  
 27 on or after July 1, 1989, shall contribute the actuarial cost of the service based on the most recent  
 28 valuation of the system.

29 (3) The interest on contributions required under subsection (2)(A) must be paid at the rate that the  
 30 contributions would have earned had the contributions been in the member's account from the date the

1 member was eligible to qualify the service.

2 (4) The contributions and interest may be made in lump-sum payment or in installments as agreed  
3 between the person and the retirement board.

4 (5) The provisions of 19-20-405 apply to creditable service purchased under this section."  
5

6 Section 5. Section 19-20-411, MCA, is amended to read:

7 "19-20-411. **Absence due to because of employment-related injury.** (1) ~~(a)~~ Subject to the limitation  
8 in subsection (5), ~~time during which a member is absent because of an injury related to employment~~  
9 ~~covered by the retirement system that entitles him to workers' compensation payments may be qualified~~  
10 ~~under the retirement system if the member was a member of the retirement system before July 1, 1989~~  
11 (6), a member who is absent because of an injury entitling the member to workers' compensation payments  
12 may qualify as creditable service the time during which the member is absent. To qualify this service, a  
13 member shall contribute to the retirement system, as provided in subsection (2) upon ~~his~~ the member's  
14 return to contributing membership service.

15 (2) (a) A member who became a member before July 1, 1989, shall contribute an amount equal to:

16 (i) the contributions ~~which would have been made by him had he~~ that the member would have  
17 made had the member not been absent, based on ~~his~~ the member's compensation at the commencement  
18 of ~~his~~ the absence;

19 (ii) ~~the interest, which~~ that begins to accrue 1 year from the date ~~he~~ that the member returns to  
20 covered employment; and

21 (iii) the interest not paid by the employer under subsection ~~(1)(b)~~ (3).

22 (b) A member who became a member on or after July 1, 1989, shall pay the actuarial cost of the  
23 service based on the most recent valuation of the system.

24 ~~(b)(3) Whenever~~ When a member elects to contribute under subsection ~~(1)(a)~~ (2)(a), the employer  
25 shall contribute an amount equal to the contributions ~~which~~ that would have been made by the employer  
26 had the member not been absent, based on the member's compensation at the commencement of ~~his~~ the  
27 absence. The employer may contribute an amount equal to the interest accruing on the employer's  
28 contributions calculated in the same manner as interest on the employee's contributions under subsection  
29 ~~(1)(a)~~ (2)(a). If the employer elects not to pay the interest, this amount must be paid by the employee.

30 ~~(2)(4)~~ A member shall file with the retirement board a written notice of ~~his~~ the member's intent to

1 pay the contributions under subsection ~~(1)(a)~~ (2).

2 ~~(3)(5)~~ Payment of the employee's contributions ~~due because of the period of absence~~ may be made  
3 in one sum at the time of filing the notice or ~~on an installment basis~~ in installments before termination of  
4 covered employment as agreed between the board and the member.

5 ~~(4)(6)~~ A member absent as provided in subsection (1)~~(a)~~ loses ~~his~~ the right to contribute under this  
6 section if ~~all of his~~ the member's accumulated normal contributions are refunded under 19-20-603.

7 ~~(5)(7)~~ The maximum amount of membership service allowable under this section is 2 years."  
8

9 **Section 6.** Section 19-20-412, MCA, is amended to read:

10 **"19-20-412. Election to purchase additional service.** (1) (a) Except as provided in subsection (3),  
11 a member with 5 years or more of creditable service may make a written election with the retirement board  
12 to purchase, for the purpose of calculating ~~his~~ the member's retirement allowance, 1 year of additional  
13 service for:

14 (i) each 5 years of service on which contributions have been made as required under the provisions  
15 of 19-20-602; and

16 (ii) each 5 years of membership service as defined in Title 19, chapter 3, for which contributions  
17 have been made as required under the provisions of 19-20-409.

18 (b) A maximum of 5 years of additional service may be purchased under this section. A part-time  
19 member may purchase additional service on a prorated basis.

20 (2) (a) To purchase additional service under this section, a member shall contribute, in a lump-sum  
21 payment or in installments as agreed upon by the member and the retirement board, an amount equal to:

22 (i) the combined employer and employee rate on July 1, 1989, or the combined rate in effect at  
23 the time ~~he~~ the member is eligible to purchase the service, whichever date is later, multiplied by ~~his~~ the  
24 member's earned compensation as provided in subsection (2)(b); and

25 (ii) interest at a rate of 8% compounded annually from July 1, 1989, or from the date at which ~~he~~  
26 the member is eligible to purchase the service, whichever date is later.

27 (b) The earned compensation used in calculating the cost of purchasing additional service under  
28 this section is:

29 (i) for the first year of service purchased, the member's earned compensation for the 1988-89  
30 school year or for ~~his~~ the member's fifth year of service, whichever year is later;

1 (ii) for the second year of service purchased, the member's earned compensation for the 1988-89  
2 school year or for ~~his~~ the member's 10th year of service, whichever year is later;

3 (iii) for the third year of service purchased, the member's earned compensation for the 1988-89  
4 school year or for ~~his~~ the member's 15th year of service, whichever year is later;

5 (iv) for the fourth year of service purchased, the member's earned compensation for the 1988-89  
6 school year or for ~~his~~ the member's 20th year of service, whichever year is later; and

7 (v) for the fifth year of service purchased, the member's earned compensation for the 1988-89  
8 school year or for ~~his~~ the member's 25th year of service, whichever year is later.

9 (3) ~~On or after July 1, 1989, a~~ A member who became a member prior to July 1, 1989, and who  
10 is eligible to purchase creditable service under 19-3-504, 19-3-510, 19-3-512, 19-3-513, 19-20-402,  
11 19-20-403, 19-20-408, 19-20-410, or 19-20-411 may not purchase additional service under this section  
12 unless ~~he~~ the member elects in writing to:

13 (a) waive ~~his~~ eligibility to purchase creditable service under sections referred to in subsection (3);  
14 and

15 (b) apply the accumulated contributions made under sections referred to in subsection (3) to the  
16 cost of additional service purchased under this section.

17 (4) Additional service purchased under this section may not be used to qualify a member for service  
18 retirement."

19  
20 NEW SECTION. SECTION 7. COORDINATION INSTRUCTION. IF HOUSE BILL NO. 205 IS NOT  
21 PASSED AND APPROVED OR IF IT IS PASSED AND APPROVED BUT DOES NOT CONTAIN A NEW  
22 SECTION PROVIDING THAT A MEMBER OF THE TEACHERS' RETIREMENT SYSTEM MAY ROLL OVER, OR  
23 TRANSFER, THE MEMBER'S CONTRIBUTIONS FROM ANOTHER QUALIFIED RETIREMENT PLAN TO THE  
24 TEACHERS' RETIREMENT SYSTEM, THEN [SECTION 1(1)(B) OF THIS ACT], AMENDING 19-20-402, MUST  
25 READ AS FOLLOWS:

26 "(B) IF THE MEMBER CONTRIBUTED TO A PUBLIC RETIREMENT PLAN, OTHER THAN SOCIAL  
27 SECURITY, WHILE PERFORMING THE OUT-OF-STATE SERVICE, THE MEMBER MUST RECEIVE A REFUND  
28 OF THE MEMBER'S CONTRIBUTIONS FOR THE SERVICE BEFORE QUALIFYING SERVICE UNDER THIS  
29 SECTION."

30

