

HOUSE BILL NO. 372

INTRODUCED BY SALES

BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

IN THE HOUSE

January 20, 1981	Introduced and referred to Committee on State Administration.
February 4, 1981	Committee recommend bill do pass as amended. Report adopted.
February 5, 1981	Bill printed and placed on members' desks.
February 6, 1981	Second reading, do pass.
February 7, 1981	Correctly engrossed.
February 9, 1981	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 10, 1981	Introduced and referred to Committee on State Administration.
March 26, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 28, 1981	Second reading, concurred in.
March 30, 1981	Motion pass consideration.
March 31, 1981	On motion rules suspended. Bill allowed to be transmitted on 71st legislative day. Motion adopted.
	Third reading, concurred in as amended. Ayes, 48; Noes, 2.

IN THE HOUSE

April 1, 1981	Returned from Senate with amendments.
April 8, 1981	Second reading, amendments concurred in.
April 9, 1981	Third reading, amendments concurred in. Ayes, 96; Noes, 0. Sent to enrolling.
April 13, 1981	Correctly enrolled. Signed by Speaker.
April 14, 1981	Signed by President Delivered to Governor.
April 20, 1981	Returned from Governor with recommended amendments.
April 22, 1981	Second reading, Governor's amendments concurred in. On motion rules suspended and bill placed on third reading this day. Third reading, Governor's amendments concurred in. Ayes, 94; Noes, 3. Transmitted to Senate.

IN THE SENATE

April 23, 1981	Second reading, Governor's amendments concurred in. Third reading, Governor's amendments concurred in. Ayes, 41; Noes, 2.
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IN THE HOUSE

April 23, 1981	Returned from Senate. Sent to enrolling. Reported correctly enrolled.
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1                    HOUSE    BILL NO. 372  
2    INTRODUCED BY Sals

3                    BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD  
4  
5    A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A METHOD FOR  
6    REVIEWING DISABILITY RETIREMENT BENEFITS OF THE JUDGES',  
7    HIGHWAY PATROLMEN'S, SHERIFFS', GAME WARDENS', AND MUNICIPAL  
8    POLICE OFFICERS' RETIREMENT SYSTEMS; AMENDING SECTIONS  
9    19-9-901, 19-9-904, AND 19-9-905, MCA."

10  
11    BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
12                    NEW SECTION. Section 1. Determination by board. The  
13    board shall determine whether a member has become disabled.  
14    In the discharge of its duty regarding such determinations,  
15    the board, any member thereof, or any duly authorized  
16    representative of the board may order medical examinations,  
17    conduct hearings, administer oaths and affirmations, take  
18    depositions, certify to official acts, and issue subpoenas  
19    to compel the attendance of witnesses and the production of  
20    books, papers, correspondence, memoranda, and other records  
21    considered necessary as evidence in connection with a claim  
22    for disability retirement. The board shall secure medical  
23    services and advice necessary to carry out the purposes of  
24    this part and shall pay compensation that the board  
25    considers reasonable for those medical services and advice.

1                    NEW SECTION. Section 2. Medical examination of  
2    disability retiree -- cancellation of allowance. (1) The  
3    board, in its discretion, may require the recipient of a  
4    disability retirement allowance to undergo a medical  
5    examination. The examination must be made by a physician or  
6    surgeon at the recipient's place of residence or at another  
7    place mutually agreed on. Upon the basis of the examination,  
8    the board shall determine, by reason of physical or mental  
9    capacity, whether the recipient can perform the duties of  
10    the position held by him when he was retired. If the board  
11    determines that the recipient is not incapacitated or if the  
12    recipient refuses to submit to a medical examination, his  
13    retirement allowance must be canceled.

14                    (2) The cancellation of a retirement allowance because  
15    a recipient is no longer incapacitated may not prejudice any  
16    right of the recipient to a retirement benefit other than a  
17    disability allowance.

18                    NEW SECTION. Section 3. Disability allowance reduced  
19    by earnings. (1) If the recipient of a disability retirement  
20    allowance engages in a gainful occupation during any month,  
21    the amount of his retirement allowance for that month must  
22    be reduced to an amount which, when added to the  
23    compensation earned by him in that occupation does not  
24    exceed the amount of his monthly compensation at the time of  
25    his retirement. The board shall exercise the same powers

1 granted in [section 1] to implement this section.

2 (2) Benefit adjustments granted under the definition  
3 of final compensation may not be included in calculating the  
4 disability retirement allowance under this section.

5 NEW SECTION. Section 4. Determination by board. The  
6 board shall determine whether a member has become disabled.  
7 In the discharge of its duty regarding such determinations,  
8 the board, any member thereof, or any duly authorized  
9 representative of the board may order medical examinations,  
10 conduct hearings, administer oaths and affirmations, take  
11 depositions, certify to official acts, and issue subpoenas  
12 to compel the attendance of witnesses and the production of  
13 books, papers, correspondence, memoranda, and other records  
14 deemed necessary as evidence in connection with a claim for  
15 disability retirement. The board shall secure medical  
16 services and advice necessary to carry out the purposes of  
17 this part and shall pay compensation that the board  
18 considers reasonable for those medical services and advice.

19 NEW SECTION. Section 5. Medical examination of  
20 disability retiree -- cancellation of allowance. (1) The  
21 board, in its discretion, may require the recipient of a  
22 disability retirement allowance to undergo a medical  
23 examination. The examination must be made by a physician or  
24 surgeon at the recipient's place of residence or at another  
25 place mutually agreed on. Upon the basis of the examination,

1 the board shall determine, by reason of physical or mental  
2 capacity, whether the recipient can perform the duties of  
3 the position held by him when he was retired. If the board  
4 determines that the recipient is not incapacitated or if the  
5 recipient refuses to submit to a medical examination, his  
6 retirement allowance must be canceled.

7 (2) A person whose retirement allowance is canceled  
8 because he is no longer incapacitated shall be reinstated to  
9 the position held by him immediately before his retirement  
10 or to a position in the same classification within his  
11 capacity. The fact that he was retired for disability may  
12 not prejudice any right to reinstatement to duty which he  
13 may have or claim to have.

14 (3) The cancellation of such disability allowance must  
15 occur when a position on the highway patrol becomes open.

16 NEW SECTION. Section 6. Disability allowance reduced  
17 by earnings. (1) If the recipient of a disability retirement  
18 allowance engages in a gainful occupation during any month,  
19 the amount of his retirement allowance for that month shall  
20 be reduced to an amount which, when added to the  
21 compensation earned by him in that occupation, does not  
22 exceed the amount of his monthly compensation at the time of  
23 his retirement. The board shall exercise the same powers  
24 granted in [section 4] to implement this section.

25 (2) Benefit adjustments granted by the legislature may

1 not be included when calculating the disability retirement  
2 allowance under this section.

3 NEW SECTION. Section 7. Determination by board. The  
4 board shall determine whether a member has become disabled.  
5 In the discharge of its duty regarding such determinations,  
6 the board, any member thereof, or any duly authorized  
7 representative of the board may order medical examinations,  
8 conduct hearings, administer oaths and affirmations, take  
9 depositions, certify to official acts, and issue subpoenas  
10 to compel the attendance of witnesses and the production of  
11 books, papers, correspondence, memoranda, and other records  
12 considered necessary as evidence in connection with a claim  
13 for disability retirement. The board shall secure medical  
14 services and advice necessary to carry out the purposes of  
15 this part and shall pay compensation that the board  
16 considers reasonable for those medical services and advice.

17 NEW SECTION. Section 8. Medical examination of  
18 disability retiree -- cancellation of allowance. (1) The  
19 board, in its discretion, may require the recipient of a  
20 disability retirement allowance to undergo a medical  
21 examination. The examination must be made by a physician or  
22 surgeon at the recipient's place of residence or at another  
23 place mutually agreed on. Upon the basis of the examination,  
24 the board shall determine, by reason of physical or mental  
25 capacity, whether the recipient can perform the duties of

1 the position held by him when he was retired. If the board  
2 determines that the recipient is not incapacitated or if the  
3 recipient refuses to submit to a medical examination, his  
4 retirement allowance must be canceled.

5 (2) A person other than an elected official whose  
6 retirement allowance is canceled because he is no longer  
7 incapacitated shall be reinstated to the position held by  
8 him immediately before his retirement or to a position in  
9 the same classification within his capacity. The fact that  
10 he was retired for disability may not prejudice any right to  
11 reinstatement to duty which he may have or claim to have.

12 NEW SECTION. Section 9. Disability allowance reduced  
13 by earnings. (1) If the recipient of a disability retirement  
14 allowance, engages in a gainful occupation during any month,  
15 the amount of his retirement allowance for that month must  
16 be reduced to an amount which, when added to the  
17 compensation earned by him in that occupation, does not  
18 exceed the amount of his monthly compensation at the time of  
19 his retirement. The board shall exercise the same powers  
20 granted in [section 7] to implement this section.

21 (2) Benefit adjustments granted by the legislature may  
22 not be included when calculating the disability retirement  
23 allowance under this section.

24 NEW SECTION. Section 10. Determination by board. The  
25 board shall determine whether a member has become disabled.

1 In the discharge of its duty regarding such determinations,  
 2 the board, any member thereof, or any duly authorized  
 3 representative of the board may order medical examinations,  
 4 conduct hearings, administer oaths and affirmations, take  
 5 depositions, certify to official acts, and issue subpoenas  
 6 to compel the attendance of witnesses and the production of  
 7 books, papers, correspondence, memoranda, and other records  
 8 considered necessary as evidence in connection with a claim  
 9 for disability retirement. The board shall secure medical  
 10 services and advice necessary to carry out the purposes of  
 11 this part and shall pay compensation that the board  
 12 considers reasonable for those medical services and advice.

13 NEW SECTION. Section 11. Medical examination of  
 14 disability retiree -- cancellation of allowance. (1) The  
 15 board, in its discretion, may require the recipient of a  
 16 disability retirement allowance to undergo a medical  
 17 examination. The examination must be made by a physician or  
 18 surgeon at the recipient's place of residence or at another  
 19 place mutually agreed on. Upon the basis of the examination,  
 20 the board shall determine, by reason of physical or mental  
 21 capacity, whether the recipient can perform the duties of  
 22 the position held by him when he was retired. If the board  
 23 determines that the recipient is not incapacitated or if the  
 24 recipient refuses to submit to a medical examination, his  
 25 retirement allowance must be canceled.

1 (2) A person whose retirement allowance is canceled  
 2 because he is no longer incapacitated shall be reinstated to  
 3 the position held by him immediately before his retirement  
 4 or to a position in the same classification within his  
 5 capacity. The fact that he was retired for disability may  
 6 not prejudice any right to reinstatement to duty which he  
 7 may have or claim to have.

8 NEW SECTION. Section 12. Disability allowance reduced  
 9 by earnings. (1) If the recipient of a disability retirement  
 10 allowance engages in a gainful occupation during any month,  
 11 the amount of his retirement allowance for that month must  
 12 be reduced to an amount which, when added to the  
 13 compensation earned by him in that occupation, does not  
 14 exceed the amount of his monthly compensation at the time of  
 15 his retirement. The board shall exercise the same powers  
 16 granted in [section 10] to implement this section.

17 (2) Benefit adjustments granted by the legislature may  
 18 not be included when calculating the disability retirement  
 19 allowance under this section.

20 Section 13. Section 19-9-901, MCA, is amended to read:  
 21 "19-9-901. Board's determination of disability. The  
 22 board shall determine whether a member has become totally  
 23 and permanently disabled and whether the disability is  
 24 duty-related. In the discharge of its duties regarding such  
 25 determination, the board, any member thereof, or any duly

1 authorized representative of the board may order medical  
 2 examinations, conduct hearings, administer oaths and  
 3 affirmations, take depositions, certify to official acts,  
 4 and issue subpoenas to compel the attendance of witnesses  
 5 and the production of books, papers, correspondence,  
 6 memoranda, and documents considered necessary as evidence in  
 7 connection with the claim for disability retirement. The  
 8 board shall secure medical ~~service services~~ and advice  
 9 necessary to carry out the purposes of this ~~section part and~~  
 10 ~~shall pay compensation that the board considers reasonable~~  
 11 ~~for those medical services and advice."~~

12 Section 14. Section 19-9-904, MCA, is amended to read:

13 "19-9-904. Termination of allowance. ~~The board, in its~~  
 14 ~~discretion, may require the recipient of a disability~~  
 15 ~~retirement allowance to undergo a medical examination. The~~  
 16 ~~examination must be made by a physician or surgeon at the~~  
 17 ~~recipient's place of residence or at another place mutually~~  
 18 ~~agreed on. Upon the basis of the examination, the board~~  
 19 ~~shall determine, by reason of physical or mental capacity,~~  
 20 ~~whether the recipient can perform the duties of the position~~  
 21 ~~held by him when he was retired. If an inactive member is~~  
 22 determined by the board to be no longer totally and  
 23 permanently disabled, ~~or if he refuses to submit to a~~  
 24 ~~medical examination,~~ his disability retirement allowance  
 25 shall cease as of the date of such determination, ~~or~~

1 ~~refusals~~ and he shall be notified of the determination by  
 2 the board. The board may review the status of any inactive  
 3 member at any time."

4 NEW SECTION. Section 15. Disability allowance reduced  
 5 by earnings. (1) If the recipient of a disability retirement  
 6 allowance engages in a gainful occupation during any month,  
 7 the amount of his retirement allowance for that month must  
 8 be reduced to an amount which, when added to the  
 9 compensation earned by him in that occupation, does not  
 10 exceed the amount of his monthly compensation at the time of  
 11 his retirement. The board shall exercise the same powers  
 12 granted in 19-9-901 to implement this section.

13 (2) Benefit adjustments granted by the legislature may  
 14 not be included when calculating the disability retirement  
 15 allowance under this section.

16 Section 16. Section 19-9-905, MCA, is amended to read:

17 "19-9-905. Reinstatement upon termination of  
 18 allowance. (1) Any inactive member whose disability  
 19 retirement allowance is cancelled as provided in 19-9-904  
 20 shall be reinstated to the position held by him immediately  
 21 before his retirement or to a position in the same  
 22 classification with duties within his capacity. The board  
 23 shall advise the employer that the disability retirement  
 24 allowance has been cancelled and that the inactive member is  
 25 eligible for reinstatement to duty. The fact that he was

1 retired for disability may not prejudice any right to  
 2 reinstatement to duty which the inactive member may have or  
 3 claim to have.

4 ~~(2) The city may request a medical or psychological~~  
 5 ~~review as to the ability of the member to return to work as~~  
 6 ~~a police officer. If the board's findings are upheld, the~~  
 7 ~~city shall pay the costs of the review.~~

8 (2)(3) If the inactive member again becomes an active  
 9 member by returning to active work for an employer within 30  
 10 days following his receipt of notice under 19-9-904, he  
 11 shall be considered to have been continuously employed  
 12 during the term of his disability. If the inactive member  
 13 fails to become an active member by returning to active work  
 14 for an employer within 30 days following receipt of such  
 15 notice, his termination of employment shall be considered to  
 16 have occurred as of his disability retirement date and the  
 17 retirement allowance, if any, to which he becomes entitled  
 18 on his service retirement shall be determined accordingly.\*

19 Section 17. Codification instruction. (1) Sections 1  
 20 through 3 are intended to be codified as an integral part of  
 21 Title 19, chapter 5, part 6, and the provisions of Title 19,  
 22 chapter 5, apply to sections 1 through 3.

23 (2) Sections 4 through 6 are intended to be codified  
 24 as an integral part of Title 19, chapter 6, part 6, and the  
 25 provisions of Title 19, chapter 6, apply to sections 4

1 through 6.

2 (3) Sections 7 through 9 are intended to be codified  
 3 as an integral part of Title 19, chapter 7, part 6, and the  
 4 provisions of Title 19, chapter 7, apply to sections 7  
 5 through 9.

6 (4) Sections 10 through 12 are intended to be codified  
 7 as an integral part of Title 19, chapter 8, part 7, and the  
 8 provisions of Title 19, chapter 8, apply to sections 10  
 9 through 12.

10 (5) Section 15 is intended to be codified as an  
 11 integral part of Title 19, chapter 9, part 9, and the  
 12 provisions of Title 19, chapter 9, apply to section 15.

-End-



Approved by Committee  
on State Administration

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3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD  
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5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A METHOD FOR  
6 REVIEWING DISABILITY RETIREMENT BENEFITS OF THE JUDGES',  
7 HIGHWAY PATROLMEN'S, SHERIFFS', GAME WARDENS', AND MUNICIPAL  
8 POLICE OFFICERS' RETIREMENT SYSTEMS; AMENDING SECTIONS  
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12 NEW SECTION. Section 1. Determination by board. The  
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23 services and advice necessary to carry out the purposes of  
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1 NEW SECTION. Section 2. Medical examination of  
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11 was retired. If the board determines that the recipient is  
12 not incapacitated or if the recipient refuses to submit to a  
13 medical examination, his retirement allowance must be  
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15 (2) The cancellation of a retirement allowance because  
16 a recipient is no longer incapacitated may not prejudice any  
17 right of the recipient to a retirement benefit other than a  
18 disability allowance.

19 ~~NEW SECTION. Section 3. Disability allowance reduced~~  
20 ~~by earnings. (1) If the recipient of a disability~~  
21 ~~retirement allowance engages in a gainful occupation during~~  
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24 ~~compensation earned by him in that occupation does not~~  
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1 his retirements. The board shall exercise the same powers  
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3 (2) Benefit adjustments granted under the definition  
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6 NEW SECTION. Section 3. Determination by board. The  
7 board shall determine whether a member has become disabled.  
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7 medical examination, his retirement allowance must be  
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9 (2) A person whose retirement allowance is canceled  
10 because he is no longer incapacitated shall be reinstated to  
11 the position held by him immediately before his retirement  
12 or to a position in the same classification within his  
13 capacity. The fact that he was retired for disability may  
14 not prejudice any right to reinstatement to duty which he  
15 may have or claim to have.

16 (3) The cancellation of such disability allowance must  
17 occur when a position on the highway patrol becomes open.

18 NEW SECTION. Section 6. Disability allowance reduced  
19 by earnings. (1) If the recipient of a disability  
20 retirement allowance engages in a gainful occupation during  
21 any month, the amount of his retirement allowance for that  
22 month shall be reduced to an amount which, when added to the  
23 compensation earned by him in that occupation, does not  
24 exceed the amount of his monthly compensation at the time of  
25 his retirement. The board shall exercise the same powers

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 3 ~~not be included when calculating the -- disability -- retirement~~  
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5 NEW SECTION. Section 5. Determination by board. The  
 6 board shall determine whether a member has become disabled.  
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 25 place mutually agreed on AT THE BOARD'S EXPENSE, upon the

1 basis of the examination, the board shall determine, by  
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 3 can perform the duties of the position held by him when he  
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 5 not incapacitated or if the recipient refuses to submit to a  
 6 medical examination, his retirement allowance must be  
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 9 retirement allowance is canceled because he is no longer  
 10 incapacitated shall be reinstated to the position held by  
 11 him immediately before his retirement or to a position in  
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 13 he was retired for disability may not prejudice any right to  
 14 reinstatement to duty which he may have or claim to have.

15 NEW SECTION. -- Section 9. -- Disability -- allowance reduced  
 16 by earnings -- (1) -- If -- the -- recipient -- of -- a -- disability  
 17 retirement allowance, engages in a gainful occupation during  
 18 any -- month, -- the amount of his retirement allowance for that  
 19 month must be reduced to an amount which, when added to -- the  
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 22 his retirement. The board shall -- exercise -- the -- same -- powers  
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23 basis of the examination, the board shall determine, by  
24 reason of physical or mental capacity, whether the recipient  
25 can perform the duties of the position held by him when he

1 was retired. If the board determines that the recipient is  
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16 month must be reduced to an amount which, when added to the  
17 compensation earned by him in that occupation, does not  
18 exceed the amount of his monthly compensation at the time of  
19 his retirement. The board shall exercise the same powers  
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22 not be included when calculating the disability retirement  
23 allowance under this section.

24 Section 9. Section 19-9-901, MCA, is amended to read:  
25 "19-9-901. Board's determination of disability. The

1 board shall determine whether a member has become totally  
 2 and permanently disabled and whether the disability is  
 3 duty-related. In the discharge of its duties regarding such  
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 5 authorized representative of the board may order medical  
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 11 connection with the claim for disability retirement. The  
 12 board shall secure medical service services and advice  
 13 necessary to carry out the purposes of this section part and  
 14 shall pay compensation that the board considers reasonable  
 15 for those medical services and advice."

16 Section 10. Section 19-9-904, MCA, is amended to read:  
 17 "19-9-904. Termination of allowance. The board, in its  
 18 discretion, may require the recipient of a disability  
 19 retirement allowance to undergo a medical examination. The  
 20 examination must be made by a physician or surgeon at the  
 21 recipient's place of residence or at another place mutually  
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 23 examination, the board shall determine, by reason of  
 24 physical or mental capacity, whether the recipient can  
 25 perform the duties of the position held by him when he was

1 retired. If an inactive member is determined by the board to  
 2 be no longer totally and permanently disabled, or if he  
 3 refuses to submit to a medical examination, his disability  
 4 retirement allowance shall cease as of the date of such  
 5 determination, or refusal, and he shall be notified of the  
 6 determination by the board. The board may review the status  
 7 of any inactive member at any time."

8 ~~NEW SECTION--Section 15--Disability allowance reduced~~  
 9 ~~by earnings--(1)--If the recipient of a disability~~  
 10 ~~retirement allowance engages in a gainful occupation during~~  
 11 ~~any month the amount of his retirement allowance for that~~  
 12 ~~month must be reduced to an amount which when added to the~~  
 13 ~~compensation earned by him in that occupation does not~~  
 14 ~~exceed the amount of his monthly compensation at the time of~~  
 15 ~~his retirement--The board shall exercise the same powers~~  
 16 ~~granted in 19-9-901 to implement this section~~

17 ~~(2)--Benefit adjustments granted by the legislature may~~  
 18 ~~not be included when calculating the disability retirement~~  
 19 ~~allowance under this section~~

20 Section 11. Section 19-9-905, MCA, is amended to read:  
 21 "19-9-905. Reinstatement upon termination of  
 22 allowance. (1) Any inactive member whose disability  
 23 retirement allowance is cancelled as provided in 19-9-904  
 24 shall be reinstated to the position held by him immediately  
 25 before his retirement or to a position in the same

1 classification with duties within his capacity. The board  
2 shall advise the employer that the disability retirement  
3 allowance has been cancelled and that the inactive member is  
4 eligible for reinstatement to duty. The fact that he was  
5 retired for disability may not prejudice any right to  
6 reinstatement to duty which the inactive member may have or  
7 claim to have.

8 {2} The city may request a medical or psychological  
9 review as to the ability of the member to return to work as  
10 a police officer. If the board's findings are upheld, the  
11 city shall pay the costs of the review.

12 ~~{2}~~{3} If the inactive member again becomes an active  
13 member by returning to active work for an employer within 30  
14 days following his receipt of notice under 19-9-904, he  
15 shall be considered to have been continuously employed  
16 during the term of his disability. If the inactive member  
17 fails to become an active member by returning to active work  
18 for an employer within 30 days following receipt of such  
19 notice, his termination of employment shall be considered to  
20 have occurred as of his disability retirement date and the  
21 retirement allowance, if any, to which he becomes entitled  
22 on his service retirement shall be determined accordingly."

23 Section 12. Codification instruction. (1) Sections 1  
24 through--3 AND\_2 are intended to be codified as an integral  
25 part of Title 19, chapter 5, part 6, and the provisions of

1 Title 19, chapter 5, apply to sections 1 through-3 AND\_2.

2 (2) Sections 4--through--6 3 AND\_4 are intended to be  
3 codified as an integral part of Title 19, chapter 6, part 6,  
4 and the provisions of Title 19, chapter 6, apply to sections  
5 4-through-6 3 AND\_4.

6 (3) Sections 7-through-9 5 AND\_6 are intended to be  
7 codified as an integral part of Title 19, chapter 7, part 6,  
8 and the provisions of Title 19, chapter 7, apply to sections  
9 7-through-9 5 AND\_6.

10 (4) Sections 10-through-12 7 AND\_8 are intended to be  
11 codified as an integral part of Title 19, chapter 8, part 7,  
12 and the provisions of Title 19, chapter 8, apply to sections  
13 10-through-12 7 AND\_8.

14 ~~{5}~~--section-15--is--intended--to--be--codified--as--an  
15 integral--part--of--title--19--chapter--9--part-9--and--the  
16 provisions-of-title-19--chapter-9--apply-to-section-15.

-End-

1 HOUSE BILL NO. 372  
 2 INTRODUCED BY SALES  
 3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A METHOD FOR  
 6 REVIEWING DISABILITY RETIREMENT BENEFITS OF THE JUDGES',  
 7 HIGHWAY PATROLMEN'S, SHERIFFS', GAME WARDENS', AND MUNICIPAL  
 8 POLICE OFFICERS' RETIREMENT SYSTEMS; AMENDING SECTIONS  
 9 19-9-901, 19-9-904, AND 19-9-905, MCA."  
 10

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

12 NEW SECTION. Section 1. Determination by board. The  
 13 board shall determine whether a member has become disabled.  
 14 In the discharge of its duty regarding such determinations,  
 15 the board, any member thereof, or any duly authorized  
 16 representative of the board may order medical examinations,  
 17 conduct hearings, administer oaths and affirmations, take  
 18 depositions, certify to official acts, and issue subpoenas  
 19 to compel the attendance of witnesses and the production of  
 20 books, papers, correspondence, memoranda, and other records  
 21 considered necessary as evidence in connection with a claim  
 22 for disability retirement. The board shall secure medical  
 23 services and advice necessary to carry out the purposes of  
 24 this part and shall pay compensation that the board  
 25 considers reasonable for those medical services and advice.

1 NEW SECTION. Section 2. Medical examination of  
 2 disability retiree -- cancellation of allowance. (1) The  
 3 board, in its discretion, may require the recipient of a  
 4 disability retirement allowance to undergo a medical  
 5 examination. The examination must be made by a physician or  
 6 surgeon at the recipient's place of residence or at another  
 7 place mutually agreed on AT THE BOARD'S EXPENSE. Upon the  
 8 basis of the examination, the board shall determine, by  
 9 reason of physical or mental capacity, whether the recipient  
 10 can perform the duties of the position held by him when he  
 11 was retired. If the board determines that the recipient is  
 12 not incapacitated or if the recipient refuses to submit to a  
 13 medical examination, his retirement allowance must be  
 14 canceled.

15 (2) The cancellation of a retirement allowance because  
 16 a recipient is no longer incapacitated may not prejudice any  
 17 right of the recipient to a retirement benefit other than a  
 18 disability allowance.

19 ~~NEW SECTION. Section 3. Disability allowance reduced~~  
 20 ~~by earnings. (1) If the recipient of a disability~~  
 21 ~~retirement allowance engages in a gainful occupation during~~  
 22 ~~any month, the amount of his retirement allowance for that~~  
 23 ~~month must be reduced to an amount which, when added to the~~  
 24 ~~compensation earned by him in that occupation, does not~~  
 25 ~~exceed the amount of his monthly compensation at the time of~~

1 his retirements. The board shall exercise the same powers  
2 granted in [section 1] to implement this section.

3 (2) Benefit adjustments granted under the definition  
4 of final compensation may not be included in calculating the  
5 disability retirement allowance under this section.

6 NEW SECTION. Section 3. Determination by board. The  
7 board shall determine whether a member has become disabled.  
8 In the discharge of its duty regarding such determinations,  
9 the board, any member thereof, or any duly authorized  
10 representative of the board may order medical examinations,  
11 conduct hearings, administer oaths and affirmations, take  
12 depositions, certify to official acts, and issue subpoenas  
13 to compel the attendance of witnesses and the production of  
14 books, papers, correspondence, memoranda, and other records  
15 deemed necessary as evidence in connection with a claim for  
16 disability retirement. The board shall secure medical  
17 services and advice necessary to carry out the purposes of  
18 this part and shall pay compensation that the board  
19 considers reasonable for those medical services and advice.

20 NEW SECTION. Section 4. Medical examination of  
21 disability retiree -- cancellation of allowance. (1) The  
22 board, in its discretion, may require the recipient of a  
23 disability retirement allowance to undergo a medical  
24 examination. The examination must be made by a physician or  
25 surgeon at the recipient's place of residence or at another

1 place mutually agreed on AT THE BOARD'S EXPENSE. Upon the  
2 basis of the examination, the board shall determine, by  
3 reason of physical or mental capacity, whether the recipient  
4 can perform the duties of the position held by him when he  
5 was retired. If the board determines that the recipient is  
6 not incapacitated or if the recipient refuses to submit to a  
7 medical examination, his retirement allowance must be  
8 canceled.

9 (2) A person whose retirement allowance is canceled  
10 because he is no longer incapacitated shall be reinstated to  
11 the position held by him immediately before his retirement  
12 or to a position in the same classification within his  
13 capacity. The fact that he was retired for disability may  
14 not prejudice any right to reinstatement to duty which he  
15 may have or claim to have.

16 (3) The cancellation of such disability allowance must  
17 occur when a position on the highway patrol becomes open.

18 NEW SECTION. Section 6. Disability allowance reduced  
19 by earnings. (1) If the recipient of a disability  
20 retirement allowance engages in a gainful occupation during  
21 any month, the amount of his retirement allowance for that  
22 month shall be reduced to an amount which, when added to the  
23 compensation earned by him in that occupation, does not  
24 exceed the amount of his monthly compensation at the time of  
25 his retirement. The board shall exercise the same powers



1 ~~granted in [section 4] to implement this section.~~

2 ~~(2) --Benefit adjustments granted by the legislature may~~  
 3 ~~not be included when calculating the --disability--retirement~~  
 4 ~~allowance under this section.~~

5 NEW SECTION. Section 5. Determination by board. The  
 6 board shall determine whether a member has become disabled.  
 7 In the discharge of its duty regarding such determinations,  
 8 the board, any member thereof, or any duly authorized  
 9 representative of the board may order medical examinations,  
 10 conduct hearings, administer oaths and affirmations, take  
 11 depositions, certify to official acts, and issue subpoenas  
 12 to compel the attendance of witnesses and the production of  
 13 books, papers, correspondence, memoranda, and other records  
 14 considered necessary as evidence in connection with a claim  
 15 for disability retirement. The board shall secure medical  
 16 services and advice necessary to carry out the purposes of  
 17 this part and shall pay compensation ~~that the board~~  
 18 ~~considers reasonable~~ for those medical services and advice.

19 NEW SECTION. Section 6. Medical examination of  
 20 disability retiree -- cancellation of allowance. (1) The  
 21 board, in its discretion, may require the recipient of a  
 22 disability retirement allowance to undergo a medical  
 23 examination. The examination must be made by a physician or  
 24 surgeon at the recipient's place of residence or at another  
 25 place mutually agreed on AT THE BOARD'S EXPENSE. upon the

1 basis of the examination, the board shall determine, by  
 2 reason of physical or mental capacity, whether the recipient  
 3 can perform the duties of the position held by him when he  
 4 was retired. If the board determines that the recipient is  
 5 not incapacitated or if the recipient refuses to submit to a  
 6 medical examination, his retirement allowance must be  
 7 canceled.

8 (2) A person other than an elected official whose  
 9 retirement allowance is canceled because he is no longer  
 10 incapacitated shall be reinstated to the position held by  
 11 him immediately before his retirement or to a position in  
 12 the same classification within his capacity. The fact that  
 13 he was retired for disability may not prejudice any right to  
 14 reinstatement to duty which he may have or claim to have.

15 ~~NEW SECTION--Section 9--Disability--allowance reduced~~  
 16 ~~by earnings--(1) if the recipient of a--disability~~  
 17 ~~retirement allowance engages in a gainful occupation during~~  
 18 ~~any month--the amount of his retirement allowance for that~~  
 19 ~~month must be reduced to an amount which, when added to--the~~  
 20 ~~compensation earned--by--him--in--that occupation--does not~~  
 21 ~~exceed the amount of his monthly compensation at the time of~~  
 22 ~~his retirement--the board shall exercise--the--same--powers~~  
 23 ~~granted in [section 7] to implement this section.~~

24 (2) --Benefit adjustments granted by the legislature may  
 25 not be included when calculating the disability retirement

1 ~~allowance under this section.~~

2 NEW SECTION. Section 7. Determination by board. The  
 3 board shall determine whether a member has become disabled.  
 4 In the discharge of its duty regarding such determinations,  
 5 the board, any member thereof, or any duly authorized  
 6 representative of the board may order medical examinations,  
 7 conduct hearings, administer oaths and affirmations, take  
 8 depositions, certify to official acts, and issue subpoenas  
 9 to compel the attendance of witnesses and the production of  
 10 books, papers, correspondence, memoranda, and other records  
 11 considered necessary as evidence in connection with a claim  
 12 for disability retirement. The board shall secure medical  
 13 services and advice necessary to carry out the purposes of  
 14 this part and shall pay compensation ~~that the board~~  
 15 ~~considers reasonable~~ for those medical services and advice.

16 NEW SECTION. Section 8. Medical examination of  
 17 disability retiree -- cancellation of allowance. (1) The  
 18 board, in its discretion, may require the recipient of a  
 19 disability retirement allowance to undergo a medical  
 20 examination. The examination must be made by a physician or  
 21 surgeon at the recipient's place of residence or at another  
 22 place mutually agreed on AT THE BOARD'S EXPENSE. Upon the  
 23 basis of the examination, the board shall determine, by  
 24 reason of physical or mental capacity, whether the recipient  
 25 can perform the duties of the position held by him when he

1 was retired. If the board determines that the recipient is  
 2 not incapacitated or if the recipient refuses to submit to a  
 3 medical examination, his retirement allowance must be  
 4 canceled.

5 (2) A person whose retirement allowance is canceled  
 6 because he is no longer incapacitated shall be reinstated to  
 7 the position held by him immediately before his retirement  
 8 or to a position in the same classification within his  
 9 capacity. The fact that he was retired for disability may  
 10 not prejudice any right to reinstatement to duty which he  
 11 may have or claim to have.

12 ~~NEW SECTION.~~ ~~Section 12.~~ ~~Disability allowance reduced~~  
 13 ~~by earnings. (1) If the recipient of a disability~~  
 14 ~~retirement allowance engages in a gainful occupation during~~  
 15 ~~any month, the amount of his retirement allowance for that~~  
 16 ~~month must be reduced to an amount which, when added to the~~  
 17 ~~compensation earned by him in that occupation, does not~~  
 18 ~~exceed the amount of his monthly compensation at the time of~~  
 19 ~~his retirement. The board shall exercise the same powers~~  
 20 ~~granted in [section 10] to implement this section.~~

21 (2) ~~Benefit adjustments granted by the legislature may~~  
 22 ~~not be included when calculating the disability retirement~~  
 23 ~~allowance under this section.~~

24 Section 9. Section 19-9-901, MCA, is amended to read:  
 25 "19-9-901. Board's determination of disability. The

1 board shall determine whether a member has become totally  
 2 and permanently disabled and whether the disability is  
 3 duty-related. In the discharge of its duties regarding such  
 4 determination, the board, any member thereof, or any duly  
 5 authorized representative of the board may order medical  
 6 examinations, conduct hearings, administer oaths and  
 7 affirmations, take depositions, certify to official acts,  
 8 and issue subpoenas to compel the attendance of witnesses  
 9 and the production of books, papers, correspondence,  
 10 memoranda, and documents considered necessary as evidence in  
 11 connection with the claim for disability retirement. The  
 12 board shall secure medical service services and advice  
 13 necessary to carry out the purposes of this section part and  
 14 shall pay compensation that the board considers reasonable  
 15 for those medical services and advice."

16 Section 10. Section 19-9-904, MCA, is amended to read:  
 17 "19-9-904. Termination of allowance. The board, in its  
 18 discretion, may require the recipient of a disability  
 19 retirement allowance to undergo a medical examination. The  
 20 examination must be made by a physician or surgeon at the  
 21 recipient's place of residence or at another place mutually  
 22 agreed on AT THE BOARD'S EXPENSE. Upon the basis of the  
 23 examination, the board shall determine, by reason of  
 24 physical or mental capacity, whether the recipient can  
 25 perform the duties of the position held by him when he was

1 retired. If an inactive member is determined by the board to  
 2 be no longer totally and permanently disabled, or if he  
 3 refuses to submit to a medical examination, his disability  
 4 retirement allowance shall cease as of the date of such  
 5 determination, or refusal, and he shall be notified of the  
 6 determination by the board. The board may review the status  
 7 of any inactive member at any time."

8 ~~NEW SECTION: Section 15--Disability allowance reduced~~  
 9 ~~by earnings--(1)--if the recipient of a disability~~  
 10 ~~retirement allowance engages in a gainful occupation during~~  
 11 ~~any month the amount of his retirement allowance for that~~  
 12 ~~month must be reduced to an amount which when added to the~~  
 13 ~~compensation earned by him in that occupation does not~~  
 14 ~~exceed the amount of his monthly compensation at the time of~~  
 15 ~~his retirement. The board shall exercise the same powers~~  
 16 ~~granted in 19-9-901 to implement this section.~~

17 ~~(2)--benefit adjustments granted by the legislature may~~  
 18 ~~not be included when calculating the disability retirement~~  
 19 ~~allowance under this section.~~

20 Section 11. Section 19-9-905, MCA, is amended to read:  
 21 "19-9-905. Reinstatement upon termination of  
 22 allowance. (1) Any inactive member whose disability  
 23 retirement allowance is cancelled as provided in 19-9-904  
 24 shall be reinstated to the position held by him immediately  
 25 before his retirement or to a position in the same

1 classification with duties within his capacity. The board  
 2 shall advise the employer that the disability retirement  
 3 allowance has been cancelled and that the inactive member is  
 4 eligible for reinstatement to duty. The fact that he was  
 5 retired for disability may not prejudice any right to  
 6 reinstatement to duty which the inactive member may have or  
 7 claim to have.

8 (2) The city may request a medical or psychological  
 9 review as to the ability of the member to return to work as  
 10 a police officer. If the board's findings are upheld, the  
 11 city shall pay the costs of the review.

12 ~~f2~~(3) If the inactive member again becomes an active  
 13 member by returning to active work for an employer within 30  
 14 days following his receipt of notice under 19-9-904, he  
 15 shall be considered to have been continuously employed  
 16 during the term of his disability. If the inactive member  
 17 fails to become an active member by returning to active work  
 18 for an employer within 30 days following receipt of such  
 19 notice, his termination of employment shall be considered to  
 20 have occurred as of his disability retirement date and the  
 21 retirement allowance, if any, to which he becomes entitled  
 22 on his service retirement shall be determined accordingly."

23 Section 12. Codification instruction. (1) Sections 1  
 24 through--3 AND 2 are intended to be codified as an integral  
 25 part of Title 19, chapter 5, part 6, and the provisions of

1 Title 19, chapter 5, apply to sections 1 through-3 AND 2.

2 (2) Sections ~~4--through--6~~ 3 AND 4 are intended to be  
 3 codified as an integral part of Title 19, chapter 6, part 6,  
 4 and the provisions of Title 19, chapter 6, apply to sections  
 5 ~~4-through-6~~ 3 AND 4.

6 (3) Sections ~~7-through-9~~ 5 AND 6 are intended to be  
 7 codified as an integral part of Title 19, chapter 7, part 6,  
 8 and the provisions of Title 19, chapter 7, apply to sections  
 9 ~~7-through-9~~ 5 AND 6.

10 (4) Sections ~~10-through-12~~ 7 AND 8 are intended to be  
 11 codified as an integral part of Title 19, chapter 8, part 7,  
 12 and the provisions of Title 19, chapter 8, apply to sections  
 13 ~~10-through-12~~ 7 AND 8.

14 ~~(5)--section-15--is--intended--to--be--codified--as--an~~  
 15 ~~integral--part--of--Title--19--chapter--9--part-9--and--the~~  
 16 ~~provisions-of-Title-19--chapter-9--apply-to-section-15~~

-end-

1 HOUSE BILL NO. 372

2 INTRODUCED BY SALES

3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A METHOD FOR  
6 REVIEWING DISABILITY RETIREMENT BENEFITS OF THE JUDGES',  
7 HIGHWAY PATROLMEN'S, SHERIFFS', GAME WARDENS', AND MUNICIPAL  
8 POLICE OFFICERS' RETIREMENT SYSTEMS; AMENDING SECTIONS  
9 19-9-901, 19-9-904, AND 19-9-905, MCA."

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

12 NEW SECTION. Section 1. Determination by board. The  
13 board shall determine whether a member has become disabled.  
14 In the discharge of its duty regarding such determinations,  
15 the board, any member thereof, or any duly authorized  
16 representative of the board may order medical examinations,  
17 conduct hearings, administer oaths and affirmations, take  
18 depositions, certify to official acts, and issue subpoenas  
19 to compel the attendance of witnesses and the production of  
20 books, papers, correspondence, memoranda, and other records  
21 considered necessary as evidence in connection with a claim  
22 for disability retirement. The board shall secure medical  
23 services and advice necessary to carry out the purposes of  
24 this part and shall pay compensation ~~that the board~~  
25 ~~considers reasonable~~ for those medical services and advice.

1 NEW SECTION. Section 2. Medical examination of  
2 disability retiree -- cancellation of allowance. (1) The  
3 board, in its discretion, may require the recipient of a  
4 disability retirement allowance to undergo a medical  
5 examination. The examination must be made by a physician or  
6 surgeon at the recipient's place of residence or at another  
7 place mutually agreed on AT THE BOARD'S EXPENSE. Upon the  
8 basis of the examination, the board shall determine, by  
9 reason of physical or mental capacity, whether the recipient  
10 can perform the duties of the position held by him when he  
11 was retired. If the board determines that the recipient is  
12 not incapacitated or if the recipient refuses to submit to a  
13 medical examination, his retirement allowance must be  
14 canceled.

15 (2) The cancellation of a retirement allowance because  
16 a recipient is no longer incapacitated may not prejudice any  
17 right of the recipient to a retirement benefit other than a  
18 disability allowance.

19 ~~NEW SECTION. Section 3. Disability allowance reduced~~  
20 ~~by earnings. (1) If the recipient of a disability~~  
21 ~~retirement allowance engages in a gainful occupation during~~  
22 ~~any month, the amount of his retirement allowance for that~~  
23 ~~month must be reduced to an amount which, when added to the~~  
24 ~~compensation earned by him in that occupation does not~~  
25 ~~exceed the amount of his monthly compensation at the time of~~

1 ~~his retirement. The board shall exercise the same powers~~  
 2 ~~granted in (section 1) to implement this section.~~

3 ~~(2) Benefit adjustments granted under the definition~~  
 4 ~~of final compensation may not be included in calculating the~~  
 5 ~~disability retirement allowance under this section.~~

6 NEW SECTION. Section 3. Determination by board. The  
 7 board shall determine whether a member has become disabled.  
 8 In the discharge of its duty regarding such determinations,  
 9 the board, any member thereof, or any duly authorized  
 10 representative of the board may order medical examinations,  
 11 conduct hearings, administer oaths and affirmations, take  
 12 depositions, certify to official acts, and issue subpoenas  
 13 to compel the attendance of witnesses and the production of  
 14 books, papers, correspondence, memoranda, and other records  
 15 deemed necessary as evidence in connection with a claim for  
 16 disability retirement. The board shall secure medical  
 17 services and advice necessary to carry out the purposes of  
 18 this part and shall pay compensation ~~that the board~~  
 19 ~~considers reasonable~~ for those medical services and advice.

20 NEW SECTION. Section 4. Medical examination of  
 21 disability retiree -- cancellation of allowance. (1) The  
 22 board, in its discretion, may require the recipient of a  
 23 disability retirement allowance to undergo a medical  
 24 examination. The examination must be made by a physician or  
 25 surgeon at the recipient's place of residence or at another

1 place mutually agreed on AT THE BOARD'S EXPENSE. Upon the  
 2 basis of the examination, the board shall determine, by  
 3 reason of physical or mental capacity, whether the recipient  
 4 can perform the duties of the position held by him when he  
 5 was retired. If the board determines that the recipient is  
 6 not incapacitated ~~or if, HIS DISABILITY RETIREMENT ALLOWANCE~~  
 7 MUST BE CANCELED WHEN HE IS OFFERED A POSITION UNDER  
 8 SUBSECTION (2). IF the recipient refuses to submit to a  
 9 medical examination, his retirement allowance must be  
 10 canceled WHEN HE IS NOTIFIED OF THE DETERMINATION OF THE  
 11 BOARD.

12 (2) A person whose retirement allowance is canceled  
 13 because he is no longer incapacitated shall be reinstated to  
 14 the position held by him immediately before his retirement  
 15 or to a position in the same classification within his  
 16 capacity, WHICHEVER IS FIRST OPEN. The fact that he was  
 17 retired for disability may not prejudice any right to  
 18 reinstatement to duty which he may have or claim to have.

19 ~~(3) The cancellation of such disability allowance must~~  
 20 ~~occur when a position on the highway patrol becomes open~~  
 21 THE DEPARTMENT OF HIGHWAYS MAY REQUEST A MEDICAL OR  
 22 PSYCHOLOGICAL REVIEW AS TO THE ABILITY OF THE MEMBER TO  
 23 RETURN TO WORK AS A MEMBER OF THE HIGHWAY PATROL. IF THE  
 24 BOARD'S FINDINGS ARE UPHOLD, THE DEPARTMENT SHALL PAY THE  
 25 COST OF THE REVIEW.

1 ~~NEW SECTION. Section 6. Disability allowance reduced~~  
 2 ~~by earnings. (1) If the recipient of a disability~~  
 3 ~~retirement allowance engages in a gainful occupation during~~  
 4 ~~any month, the amount of his retirement allowance for that~~  
 5 ~~month shall be reduced to an amount which, when added to the~~  
 6 ~~compensation earned by him in that occupation, does not~~  
 7 ~~exceed the amount of his monthly compensation at the time of~~  
 8 ~~his retirement. The board shall exercise the same powers~~  
 9 ~~granted in [section 4] to implement this section.~~

10 ~~(2) Benefit adjustments granted by the legislature may~~  
 11 ~~not be included when calculating the disability retirement~~  
 12 ~~allowance under this section.~~

13 NEW SECTION. Section 5. Determination by board. The  
 14 board shall determine whether a member has become disabled.  
 15 In the discharge of its duty regarding such determinations,  
 16 the board, any member thereof, or any duly authorized  
 17 representative of the board may order medical examinations,  
 18 conduct hearings, administer oaths and affirmations, take  
 19 depositions, certify to official acts, and issue subpoenas  
 20 to compel the attendance of witnesses and the production of  
 21 books, papers, correspondence, memoranda, and other records  
 22 considered necessary as evidence in connection with a claim  
 23 for disability retirement. The board shall secure medical  
 24 services and advice necessary to carry out the purposes of  
 25 this part and shall pay compensation that the board

1 considers reasonable for those medical services and advice.

2 NEW SECTION. Section 6. Medical examination of  
 3 disability retiree -- cancellation of allowance. (1) The  
 4 board, in its discretion, may require the recipient of a  
 5 disability retirement allowance to undergo a medical  
 6 examination. The examination must be made by a physician or  
 7 surgeon at the recipient's place of residence or at another  
 8 place mutually agreed on AT THE BOARD'S EXPENSE. Upon the  
 9 basis of the examination, the board shall determine, by  
 10 reason of physical or mental capacity, whether the recipient  
 11 can perform the duties of the position held by him when he  
 12 was retired. If the board determines that the recipient is  
 13 not incapacitated ~~or if, HIS DISABILITY RETIREMENT ALLOWANCE~~  
 14 MUST BE CANCELED WHEN HE IS OFFERED A POSITION UNDER  
 15 SUBSECTION (2). If the recipient refuses to submit to a  
 16 medical examination, his retirement allowance must be  
 17 canceled WHEN HE IS NOTIFIED OF THE DETERMINATION OF THE  
 18 BOARD.

19 (2) A person other than an elected official whose  
 20 retirement allowance is canceled because he is no longer  
 21 incapacitated shall be reinstated to the position held by  
 22 him immediately before his retirement or to a position in  
 23 the same classification within his capacity, WHICHEVER IS  
 24 FIRST OPEN. The fact that he was retired for disability may  
 25 not prejudice any right to reinstatement to duty which he

1 may have or claim to have.

2 (3) THE PUBLIC BODY REQUIRED TO REINSTATE A PERSON  
 3 UNDER SUBSECTION (2) MAY REQUEST A MEDICAL OR PSYCHOLOGICAL  
 4 REVIEW AS TO THE ABILITY OF THE MEMBER TO RETURN TO WORK AS  
 5 A MEMBER OF THE SHERIFF'S DEPARTMENT. IF THE BOARD'S  
 6 FINDINGS ARE UPHELD, THE PUBLIC BODY SHALL PAY THE COST OF  
 7 THE REVIEW.

8 ~~NEW SECTION. Section 9. Disability allowance reduced~~  
 9 ~~by earnings. (1) If the recipient of a disability~~  
 10 ~~retirement allowance engages in a gainful occupation during~~  
 11 ~~any month the amount of his retirement allowance for that~~  
 12 ~~month must be reduced to an amount which when added to the~~  
 13 ~~compensation earned by him in that occupation does not~~  
 14 ~~exceed the amount of his monthly compensation at the time of~~  
 15 ~~his retirement. The board shall exercise the same powers~~  
 16 ~~granted in [section 7] to implement this section.~~

17 ~~(2) Benefit adjustments granted by the legislature may~~  
 18 ~~not be included when calculating the disability retirement~~  
 19 ~~allowance under this section.~~

20 NEW SECTION. Section 7. Determination by board. The  
 21 board shall determine whether a member has become disabled.  
 22 In the discharge of its duty regarding such determinations,  
 23 the board, any member thereof, or any duly authorized  
 24 representative of the board may order medical examinations,  
 25 conduct hearings, administer oaths and affirmations, take

1 depositions, certify to official acts, and issue subpoenas  
 2 to compel the attendance of witnesses and the production of  
 3 books, papers, correspondence, memoranda, and other records  
 4 considered necessary as evidence in connection with a claim  
 5 for disability retirement. The board shall secure medical  
 6 services and advice necessary to carry out the purposes of  
 7 this part and shall pay compensation ~~that the board~~  
 8 ~~considers reasonable~~ for those medical services and advice.

9 NEW SECTION. Section 8. Medical examination of  
 10 disability retiree -- cancellation of allowance. (1) The  
 11 board, in its discretion, may require the recipient of a  
 12 disability retirement allowance to undergo a medical  
 13 examination. The examination must be made by a physician or  
 14 surgeon at the recipient's place of residence or at another  
 15 place mutually agreed on AT THE BOARD'S EXPENSE. Upon the  
 16 basis of the examination, the board shall determine, by  
 17 reason of physical or mental capacity, whether the recipient  
 18 can perform the duties of the position held by him when he  
 19 was retired. If the board determines that the recipient is  
 20 not incapacitated or if, HIS DISABILITY RETIREMENT ALLOWANCE  
 21 MUST BE CANCELED WHEN HE IS OFFERED A POSITION UNDER  
 22 SUBSECTION (2). IF the recipient refuses to submit to a  
 23 medical examination, his retirement allowance must be  
 24 canceled WHEN HE IS NOTIFIED OF THE DETERMINATION OF THE  
 25 BOARD.



1 (2) A person whose retirement allowance is canceled  
 2 because he is no longer incapacitated shall be reinstated to  
 3 the position held by him immediately before his retirement  
 4 or to a position in the same classification within his  
 5 capacity, WHICHEVER IS FIRST OPEN. The fact that he was  
 6 retired for disability may not prejudice any right to  
 7 reinstatement to duty which he may have or claim to have.

8 (3) THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS MAY  
 9 REQUEST A MEDICAL OR PSYCHOLOGICAL REVIEW AS TO THE ABILITY  
 10 OF THE MEMBER TO RETURN TO WORK AS A GAME WARDEN. IF THE  
 11 BOARD'S FINDINGS ARE UPHELD, THE DEPARTMENT OF FISH,  
 12 WILDLIFE, AND PARKS SHALL PAY THE COST OF THE REVIEW.

13 ~~NEW SECTION. Section 12. Disability allowance reduced~~  
 14 ~~by earnings. (1) If the recipient of a disability~~  
 15 ~~retirement allowance engages in a gainful occupation during~~  
 16 ~~any month the amount of his retirement allowance for that~~  
 17 ~~month must be reduced to an amount which when added to the~~  
 18 ~~compensation earned by him in that occupation does not~~  
 19 ~~exceed the amount of his monthly compensation at the time of~~  
 20 ~~his retirement. The board shall exercise the same powers~~  
 21 ~~granted in [section 10] to implement this section.~~

22 ~~(2) Benefit adjustments granted by the legislature may~~  
 23 ~~not be included when calculating the disability retirement~~  
 24 ~~allowance under this section.~~

25 Section 9. Section 19-9-901, MCA, is amended to read:

1 "19-9-901. Board's determination of disability. The  
 2 board shall determine whether a member has become totally  
 3 and permanently disabled and whether the disability is  
 4 duty-related. In the discharge of its duties regarding such  
 5 determination, the board, any member thereof, or any duly  
 6 authorized representative of the board may order medical  
 7 examinations, conduct hearings, administer oaths and  
 8 affirmations, take depositions, certify to official acts,  
 9 and issue subpoenas to compel the attendance of witnesses  
 10 and the production of books, papers, correspondence,  
 11 memoranda, and documents considered necessary as evidence in  
 12 connection with the claim for disability retirement. The  
 13 board shall secure medical service services and advice  
 14 necessary to carry out the purposes of this section part and  
 15 shall pay compensation that the board considers reasonable  
 16 for those medical services and advice."

17 Section 10. Section 19-9-904, MCA, is amended to read:

18 "19-9-904. Termination of allowance. The board, in its  
 19 discretion, may require the recipient of a disability  
 20 retirement allowance to undergo a medical examination. The  
 21 examination must be made by a physician or surgeon at the  
 22 recipient's place of residence or at another place mutually  
 23 agreed on AT THE BOARD'S EXPENSE. Upon the basis of the  
 24 examination, the board shall determine, by reason of  
 25 physical or mental capacity, whether the recipient can

1 perform the duties of the position held by him when he was  
 2 retired. If an inactive member is determined by the board to  
 3 be no longer totally and permanently disabled, ~~or if HIS~~  
 4 DISABILITY RETIREMENT ALLOWANCE MUST BE CANCELED WHEN HE IS  
 5 OFFERED A POSITION UNDER 19-9-905. If he refuses to submit  
 6 to a medical examination, his disability retirement  
 7 allowance shall cease as of the date of such determination  
 8 ~~or refusal~~ and he HE shall be notified of the  
 9 determination by the board. The board may review the status  
 10 of any inactive member at any time."

11 ~~NEW-SECTION--Section 15--Disability allowance reduced~~  
 12 ~~by earnings--(1)--if--the--recipient--of--a--disability~~  
 13 ~~retirement--allowance--engages--in--a--gainful--occupation--during~~  
 14 ~~any--month--the--amount--of--his--retirement--allowance--for--that~~  
 15 ~~month--must--be--reduced--to--an--amount--which--when--added--to--the~~  
 16 ~~compensation--earned--by--him--in--that--occupation--does--not~~  
 17 ~~exceed--the--amount--of--his--monthly--compensation--at--the--time--of~~  
 18 ~~his--retirement--The--board--shall--exercise--the--same--powers~~  
 19 ~~granted--in--19-9-901--to--implement--this--section~~

20 ~~(2)--Benefit--adjustments--granted--by--the--legislature--may~~  
 21 ~~not--be--included--when--calculating--the--disability--retirement~~  
 22 ~~allowance--under--this--section~~

23 Section 11. Section 19-9-905, MCA, is amended to read:  
 24 "19-9-905. Reinstatement upon termination of  
 25 allowance. (1) Any inactive member whose disability

1 retirement allowance is cancelled as provided in 19-9-904  
 2 shall be reinstated to the position held by him immediately  
 3 before his retirement or to a position in the same  
 4 classification with duties within his capacity WHICHEVER IS  
 5 FIRST OPEN. The board shall advise the employer that the  
 6 disability retirement allowance has been cancelled and that  
 7 the inactive member is eligible for reinstatement to duty.  
 8 The fact that he was retired for disability may not  
 9 prejudice any right to reinstatement to duty which the  
 10 inactive member may have or claim to have.

11 (2) The city may request a medical or psychological  
 12 review as to the ability of the member to return to work as  
 13 a police officer. If the board's findings are upheld, the  
 14 city shall pay the costs of the review.

15 ~~(2)(3)~~ If the inactive member again becomes an active  
 16 member by returning to active work for an employer within 30  
 17 days following his receipt of notice under 19-9-904, he  
 18 shall be considered to have been continuously employed  
 19 during the term of his disability. If the inactive member  
 20 fails to become an active member by returning to active work  
 21 for an employer within 30 days following receipt of such  
 22 notice, his termination of employment shall be considered to  
 23 have occurred as of his disability retirement date and the  
 24 retirement allowance, if any, to which he becomes entitled  
 25 on his service retirement shall be determined accordingly."

1 Section 12. Codification instruction. (1) Sections 1  
2 through-3 AND 2 are intended to be codified as an integral  
3 part of Title 19, chapter 5, part 6, and the provisions of  
4 Title 19, chapter 5, apply to sections 1 through-3 AND 2.

5 (2) Sections 4-through-6 3 AND 4 are intended to be  
6 codified as an integral part of Title 19, chapter 6, part 6,  
7 and the provisions of Title 19, chapter 6, apply to sections  
8 4-through-6 3 AND 4.

9 (3) Sections 7--through--9 5 AND 6 are intended to be  
10 codified as an integral part of Title 19, chapter 7, part 6,  
11 and the provisions of Title 19, chapter 7, apply to sections  
12 7-through-9 5 AND 6.

13 (4) Sections 10-through-12 7 AND 8 are intended to be  
14 codified as an integral part of Title 19, chapter 8, part 7,  
15 and the provisions of Title 19, chapter 8, apply to sections  
16 10-through-12 7 AND 8.

17 (5)--Section--15--is--intended--to--be--codified--as--an  
18 integral-part-of-title--19--chapter--9--part--9--and--the  
19 provisions-of-title-19--chapter-9--apply-to-section-15

-End-

March 26, 1981

SENATE STANDING COMMITTEE REPORT  
(State Administration)

That House Bill No. 372 be amended as follows:

1. Page 4, line 6.

Following: "incapacitated"

Strike: "or if"

Insert: "his disability retirement allowance must be canceled when he is offered a position under subsection (2). If"

2. Page 4, line 8.

Following: "canceled"

Insert: "when he is notified of the determination of the board "

3. Page 4, line 13.

Following: "capacity"

Insert: ", whichever is first open"

4. Page 4, line 16 and line 17.

Following: (3)

Strike: line 16 and 17 in its entirety

Insert: "The department of highways may request a medical or psychological review as to the ability of the member to return to work as a member of the highway patrol. If the board's findings are upheld, the department shall pay the cost of the review."

5. Page 6, line 5.

Following: "incapacitated"

Strike: "or if"

Insert: "his disability retirement allowance must be canceled when he is offered a position under subsection (2). If"

6. Page 6, line 7.

Following: "canceled"

Insert: "when he is notified of the determination of the board"

7. Page 6, line 12.

Following: "capacity"

Insert: ", whichever is first open"

8. Page 6, line 15.

Following: line 14

Insert: "(3) The public body required to reinstate a person under subsection (2) may request a medical or psychological review as to the ability of the member to return to work as a member of the sheriff's department. If the board's findings are upheld, the public body shall pay the cost of the review."

9. Page 8, line 2.

Following: "incapacitated"

Strike: "or if"

Insert: "his disability retirement allowance must be canceled when he is offered a position under subsection (2). If"

10. Page 8, line 4.

Following: "canceled"

Insert: "when he is notified of the determination of the board"

11. Page 8, line 9.

Following: "capacity"

Insert: ", whichever is first open"

12. Page 8, line 12.

Following: line 11

Insert: "(3) The department of fish, wildlife, and parks may request a medical or psychological review as to the ability of the member to return to work as a game warden. If the board's findings are upheld, the department of fish, wildlife, and parks shall pay the cost of the review."

13. Page 10, line 2 and line 3.

Following: "disabled,"

Strike: "or if"

Insert: "his disability retirement allowance must be canceled when he is offered a position under 19-9-905. If"

14. Page 10, line 5.

Following: "determination"

Strike: ", or refusal, and he"

Insert: ". He"

15. Page 11, line 1.

Following: "capacity"

Insert: "whichever is first open"

GOVERNOR'S PROPOSED AMENDMENT TO HOUSE BILL NO. 372;  
REFERENCE COPY; AS FOLLOWS:

1. Page 4, line 21  
Following: "OF"  
Strike: "HIGHWAYS"  
Insert: "JUSTICE"

1 HOUSE BILL NO. 372

2 INTRODUCED BY SALES

3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A METHOD FOR  
6 REVIEWING DISABILITY RETIREMENT BENEFITS OF THE JUDGES,  
7 HIGHWAY PATROLMEN'S, SHERIFFS', GAME WARDENS', AND MUNICIPAL  
8 POLICE OFFICERS' RETIREMENT SYSTEMS; AMENDING SECTIONS  
9 19-9-901, 19-9-904, AND 19-9-905, MCA."

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

12 NEW SECTION. Section 1. Determination by board. The  
13 board shall determine whether a member has become disabled.  
14 In the discharge of its duty regarding such determinations,  
15 the board, any member thereof, or any duly authorized  
16 representative of the board may order medical examinations,  
17 conduct hearings, administer oaths and affirmations, take  
18 depositions, certify to official acts, and issue subpoenas  
19 to compel the attendance of witnesses and the production of  
20 books, papers, correspondence, memoranda, and other records  
21 considered necessary as evidence in connection with a claim  
22 for disability retirement. The board shall secure medical  
23 services and advice necessary to carry out the purposes of  
24 this part and shall pay compensation that the board  
25 considers reasonable for those medical services and advice.

1 NEW SECTION. Section 2. Medical examination of  
2 disability retiree -- cancellation of allowance. (1) The  
3 board, in its discretion, may require the recipient of a  
4 disability retirement allowance to undergo a medical  
5 examination. The examination must be made by a physician or  
6 surgeon at the recipient's place of residence or at another  
7 place mutually agreed on AT THE BOARD'S EXPENSE. Upon the  
8 basis of the examination, the board shall determine, by  
9 reason of physical or mental capacity, whether the recipient  
10 can perform the duties of the position held by him when he  
11 was retired. If the board determines that the recipient is  
12 not incapacitated or if the recipient refuses to submit to a  
13 medical examination, his retirement allowance must be  
14 canceled.

15 (2) The cancellation of a retirement allowance because  
16 a recipient is no longer incapacitated may not prejudice any  
17 right of the recipient to a retirement benefit other than a  
18 disability allowance.

19 ~~NEW SECTION. Section 3. Disability allowance reduced~~  
20 ~~by earnings. (1) If the recipient of a disability~~  
21 ~~retirement allowance engages in a gainful occupation during~~  
22 ~~any month the amount of his retirement allowance for that~~  
23 ~~month must be reduced to an amount which when added to the~~  
24 ~~compensation earned by him in that occupation does not~~  
25 ~~exceed the amount of his monthly compensation at the time of~~

1 ~~his retirement. The board shall exercise the same powers~~  
2 ~~granted in section 1j to implement this section.~~

3 ~~(2) Benefit adjustments granted under the definition~~  
4 ~~of final compensation may not be included in calculating the~~  
5 ~~disability retirement allowance under this section.~~

6 NEW SECTION. Section 3. Determination by board. The  
7 board shall determine whether a member has become disabled.  
8 In the discharge of its duty regarding such determinations,  
9 the board, any member thereof, or any duly authorized  
10 representative of the board may order medical examinations,  
11 conduct hearings, administer oaths and affirmations, take  
12 depositions, certify to official acts, and issue subpoenas  
13 to compel the attendance of witnesses and the production of  
14 books, papers, correspondence, memoranda, and other records  
15 deemed necessary as evidence in connection with a claim for  
16 disability retirement. The board shall secure medical  
17 services and advice necessary to carry out the purposes of  
18 this part and shall pay compensation ~~that the board~~  
19 ~~considers reasonable~~ for those medical services and advice.

20 NEW SECTION. Section 4. Medical examination of  
21 disability retirees -- cancellation of allowance. (1) The  
22 board, in its discretion, may require the recipient of a  
23 disability retirement allowance to undergo a medical  
24 examination. The examination must be made by a physician or  
25 surgeon at the recipient's place of residence or at another

1 place mutually agreed on AT THE BOARD'S EXPENSE. Upon the  
2 basis of the examination, the board shall determine, by  
3 reason of physical or mental capacity, whether the recipient  
4 can perform the duties of the position held by him when he  
5 was retired. If the board determines that the recipient is  
6 not incapacitated ~~or if, HIS DISABILITY RETIREMENT ALLOWANCE~~  
7 ~~MUST BE CANCELED WHEN HE IS OFFERED A POSITION UNDER~~  
8 ~~SUBSECTION (2).~~ IF the recipient refuses to submit to a  
9 medical examination, his retirement allowance must be  
10 canceled WHEN HE IS NOTIFIED OF THE DETERMINATION OF THE  
11 BOARD.

12 (2) A person whose retirement allowance is canceled  
13 because he is no longer incapacitated shall be reinstated to  
14 the position held by him immediately before his retirement  
15 or to a position in the same classification within his  
16 capacity, WHICHEVER IS FIRST OPEN. The fact that he was  
17 retired for disability may not prejudice any right to  
18 reinstatement to duty which he may have or claim to have.

19 (3) ~~The cancellation of such disability allowance must~~  
20 ~~occur when a position on the highway patrol becomes open.~~  
21 THE DEPARTMENT OF HIGHWAYS JUSTICE MAY REQUEST A MEDICAL OR  
22 PSYCHOLOGICAL REVIEW AS TO THE ABILITY OF THE MEMBER TO  
23 RETURN TO WORK AS A MEMBER OF THE HIGHWAY PATROL. IF THE  
24 BOARD'S FINDINGS ARE UPHELD, THE DEPARTMENT SHALL PAY THE  
25 COST OF THE REVIEW.



1 ~~NEW SECTION. Section 6. Disability allowance reduced~~  
 2 ~~by earnings. (1) If the recipient of a disability~~  
 3 ~~retirement allowance engages in a gainful occupation during~~  
 4 ~~any month, the amount of his retirement allowance for that~~  
 5 ~~month shall be reduced to an amount which, when added to the~~  
 6 ~~compensation earned by him in that occupation, does not~~  
 7 ~~exceed the amount of his monthly compensation at the time of~~  
 8 ~~his retirement. The board shall exercise the same powers~~  
 9 ~~granted in section 4 to implement this section.~~

10 ~~(2) Benefit adjustments granted by the legislature may~~  
 11 ~~not be included when calculating the disability retirement~~  
 12 ~~allowance under this section.~~

13 NEW SECTION. Section 5. Determination by board. The  
 14 board shall determine whether a member has become disabled.  
 15 In the discharge of its duty regarding such determinations,  
 16 the board, any member thereof, or any duly authorized  
 17 representative of the board may order medical examinations,  
 18 conduct hearings, administer oaths and affirmations, take  
 19 depositions, certify to official acts, and issue subpoenas  
 20 to compel the attendance of witnesses and the production of  
 21 books, papers, correspondence, memoranda, and other records  
 22 considered necessary as evidence in connection with a claim  
 23 for disability retirement. The board shall secure medical  
 24 services and advice necessary to carry out the purposes of  
 25 this part and shall pay compensation that the board

1 considers reasonable for those medical services and advice.

2 NEW SECTION. Section 6. Medical examination of  
 3 disability retiree -- cancellation of allowance. (1) The  
 4 board, in its discretion, may require the recipient of a  
 5 disability retirement allowance to undergo a medical  
 6 examination. The examination must be made by a physician or  
 7 surgeon at the recipient's place of residence or at another  
 8 place mutually agreed on AT THE BOARD'S EXPENSE. Upon the  
 9 basis of the examination, the board shall determine, by  
 10 reason of physical or mental capacity, whether the recipient  
 11 can perform the duties of the position held by him when he  
 12 was retired. If the board determines that the recipient is  
 13 not incapacitated ~~or if, HIS DISABILITY RETIREMENT ALLOWANCE~~  
 14 MUST BE CANCELED WHEN HE IS OFFERED A POSITION UNDER  
 15 SUBSECTION (2). IF the recipient refuses to submit to a  
 16 medical examination, his retirement allowance must be  
 17 canceled WHEN HE IS NOTIFIED OF THE DETERMINATION OF THE  
 18 BOARD.

19 (2) A person other than an elected official whose  
 20 retirement allowance is canceled because he is no longer  
 21 incapacitated shall be reinstated to the position held by  
 22 him immediately before his retirement or to a position in  
 23 the same classification within his capacity, WHICHEVER IS  
 24 FIRST OPEN. The fact that he was retired for disability may  
 25 not prejudice any right to reinstatement to duty which he

1 may have or claim to have.

2 (3) THE PUBLIC BODY REQUIRED TO REINSTATE A PERSON  
 3 UNDER SUBSECTION (2) MAY REQUEST A MEDICAL OR PSYCHOLOGICAL  
 4 REVIEW AS TO THE ABILITY OF THE MEMBER TO RETURN TO WORK AS  
 5 A MEMBER OF THE SHERIFF'S DEPARTMENT. IF THE BOARD'S  
 6 FINDINGS ARE UPHELD, THE PUBLIC BODY SHALL PAY THE COST OF  
 7 THE REVIEW.

8 NEW SECTION. Section 9. Disability allowance reduced  
 9 by earnings. (1) If the recipient of a disability  
 10 retirement allowance engages in a gainful occupation during  
 11 any month the amount of his retirement allowance for that  
 12 month must be reduced to an amount which when added to the  
 13 compensation earned by him in that occupation does not  
 14 exceed the amount of his monthly compensation at the time of  
 15 his retirement. The board shall exercise the same powers  
 16 granted in (section 7) to implement this section.

17 (2) Benefit adjustments granted by the legislature may  
 18 not be included when calculating the disability retirement  
 19 allowance under this section.

20 NEW SECTION. Section 7. Determination by board. The  
 21 board shall determine whether a member has become disabled.  
 22 In the discharge of its duty regarding such determinations,  
 23 the board, any member thereof, or any duly authorized  
 24 representative of the board may order medical examinations,  
 25 conduct hearings, administer oaths and affirmations, take

1 depositions, certify to official acts, and issue subpoenas  
 2 to compel the attendance of witnesses and the production of  
 3 books, papers, correspondence, memoranda, and other records  
 4 considered necessary as evidence in connection with a claim  
 5 for disability retirement. The board shall secure medical  
 6 services and advice necessary to carry out the purposes of  
 7 this part and shall pay compensation ~~that the board~~  
 8 ~~considers reasonable~~ for those medical services and advice.

9 NEW SECTION. Section 8. Medical examination of  
 10 disability retiree -- cancellation of allowance. (1) The  
 11 board, in its discretion, may require the recipient of a  
 12 disability retirement allowance to undergo a medical  
 13 examination. The examination must be made by a physician or  
 14 surgeon at the recipient's place of residence or at another  
 15 place mutually agreed on AT THE BOARD'S EXPENSE. upon the  
 16 basis of the examination, the board shall determine, by  
 17 reason of physical or mental capacity, whether the recipient  
 18 can perform the duties of the position held by him when he  
 19 was retired. If the board determines that the recipient is  
 20 not incapacitated or if, HIS DISABILITY RETIREMENT ALLOWANCE  
 21 MUST BE CANCELED WHEN HE IS OFFERED A POSITION UNDER  
 22 SUBSECTION (2), IF the recipient refuses to submit to a  
 23 medical examination, his retirement allowance must be  
 24 canceled WHEN HE IS NOTIFIED OF THE DETERMINATION OF THE  
 25 BOARD.

1 (2) A person whose retirement allowance is canceled  
2 because he is no longer incapacitated shall be reinstated to  
3 the position held by him immediately before his retirement  
4 or to a position in the same classification within his  
5 capacity, WHICHEVER IS FIRST OPEN. The fact that he was  
6 retired for disability may not prejudice any right to  
7 reinstatement to duty which he may have or claim to have.

8 (3) THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS MAY  
9 REQUEST A MEDICAL OR PSYCHOLOGICAL REVIEW AS TO THE ABILITY  
10 OF THE MEMBER TO RETURN TO WORK AS A GAME WARDEN. IF THE  
11 BOARD'S FINDINGS ARE UPHELD, THE DEPARTMENT OF FISH,  
12 WILDLIFE, AND PARKS SHALL PAY THE COST OF THE REVIEW.

13 ~~NEW SECTION--Section 12--Disability-allowance-reduced~~  
14 ~~by-earnings--(1)--if--the--recipient--of--a--disability~~  
15 ~~retirement--allowance--engages--in--a--gainful--occupation--during~~  
16 ~~any--month--the--amount--of--his--retirement--allowance--for--that~~  
17 ~~month--must--be--reduced--to--an--amount--which--when--added--to--the~~  
18 ~~compensation--earned--by--him--in--that--occupation--does--not~~  
19 ~~exceed--the--amount--of--his--monthly--compensation--at--the--time--of~~  
20 ~~his--retirement--The--board--shall--exercise--the--same--powers~~  
21 ~~granted--in--[section 10]--to--implement--this--section--~~

22 ~~(2)--Benefit--adjustments--granted--by--the--legislature--may~~  
23 ~~not--be--included--when--calculating--the--disability--retirement~~  
24 ~~allowance--under--this--section--~~

25 Section 9. Section 19-9-901, MCA, is amended to read:

1 "19-9-901. Board's determination of disability. The  
2 board shall determine whether a member has become totally  
3 and permanently disabled and whether the disability is  
4 duty-related. In the discharge of its duties regarding such  
5 determination, the board, any member thereof, or any duly  
6 authorized representative of the board may order medical  
7 examinations, conduct hearings, administer oaths and  
8 affirmations, take depositions, certify to official acts,  
9 and issue subpoenas to compel the attendance of witnesses  
10 and the production of books, papers, correspondence,  
11 memoranda, and documents considered necessary as evidence in  
12 connection with the claim for disability retirement. The  
13 board shall secure medical service services and advice  
14 necessary to carry out the purposes of this section part and  
15 shall pay compensation that the board considers reasonable  
16 for those medical services and advice."

17 Section 10. Section 19-9-904, MCA, is amended to read:

18 "19-9-904. Termination of allowance. The board, in its  
19 discretion, may require the recipient of a disability  
20 retirement allowance to undergo a medical examination. The  
21 examination must be made by a physician or surgeon at the  
22 recipient's place of residence or at another place mutually  
23 agreed on AT THE BOARD'S EXPENSE. Upon the basis of the  
24 examination, the board shall determine, by reason of  
25 physical or mental capacity, whether the recipient can

1 perform the duties of the position held by him when he was  
 2 retired. If an inactive member is determined by the board to  
 3 be no longer totally and permanently disabled, ~~or if HIS~~  
 4 DISABILITY RETIREMENT ALLOWANCE MUST BE CANCELED WHEN HE IS  
 5 OFFERED A POSITION UNDER 19-9-905, IF he refuses to submit  
 6 to a medical examination, his disability retirement  
 7 allowance shall cease as of the date of such determination  
 8 ~~or refusal~~ and ~~he~~ HE shall be notified of the  
 9 determination by the board. The board may review the status  
 10 of any inactive member at any time."

11 ~~NEW SECTION--Section 19-9-905--Disability allowance reduced~~  
 12 ~~by earnings--(1)--if--the--recipient--of--a--disability~~  
 13 ~~retirement--allowance--engages--in--a--gainful--occupation--during~~  
 14 ~~any--month--the--amount--of--his--retirement--allowance--for--that~~  
 15 ~~month--must--be--reduced--to--an--amount--which--when--added--to--the~~  
 16 ~~compensation--earned--by--him--in--that--occupation--does--not~~  
 17 ~~exceed--the--amount--of--his--monthly--compensation--at--the--time--of~~  
 18 ~~his--retirement--the--board--shall--exercise--the--same--powers~~  
 19 ~~granted--in--19-9-901--to--implement--this--section~~

20 ~~(2)--benefit--adjustments--granted--by--the--legislature--may~~  
 21 ~~not--be--included--when--calculating--the--disability--retirement~~  
 22 ~~allowance--under--this--section~~

23 Section 11. Section 19-9-905, MCA, is amended to read:  
 24 "19-9-905. Reinstatement upon termination of  
 25 allowance. (1) Any inactive member whose disability

1 retirement allowance is cancelled as provided in 19-9-904  
 2 shall be reinstated to the position held by him immediately  
 3 before his retirement or to a position in the same  
 4 classification with duties within his capacity WHICHEVER IS  
 5 FIRST OPEN. The board shall advise the employer that the  
 6 disability retirement allowance has been cancelled and that  
 7 the inactive member is eligible for reinstatement to duty.  
 8 The fact that he was retired for disability may not  
 9 prejudice any right to reinstatement to duty which the  
 10 inactive member may have or claim to have.

11 (2) The city may request a medical or psychological  
 12 review as to the ability of the member to return to work as  
 13 a police officer. If the board's findings are upheld, the  
 14 city shall pay the costs of the review.

15 ~~(2)(3)~~ If the inactive member again becomes an active  
 16 member by returning to active work for an employer within 30  
 17 days following his receipt of notice under 19-9-904, he  
 18 shall be considered to have been continuously employed  
 19 during the term of his disability. If the inactive member  
 20 fails to become an active member by returning to active work  
 21 for an employer within 30 days following receipt of such  
 22 notice, his termination of employment shall be considered to  
 23 have occurred as of his disability retirement date and the  
 24 retirement allowance, if any, to which he becomes entitled  
 25 on his service retirement shall be determined accordingly."

1 Section 12. Codification instruction. (1) Sections 1  
2 ~~through-3~~ AND 2 are intended to be codified as an integral  
3 part of Title 19, chapter 5, part 6, and the provisions of  
4 Title 19, chapter 5, apply to sections 1 ~~through-3~~ AND 2.

5 (2) Sections ~~4-through-6~~ 3 AND 4 are intended to be  
6 codified as an integral part of Title 19, chapter 6, part 6,  
7 and the provisions of Title 19, chapter 6, apply to sections  
8 ~~4-through-6~~ 3 AND 4.

9 (3) Sections ~~7-through-9~~ 5 AND 6 are intended to be  
10 codified as an integral part of Title 19, chapter 7, part 6,  
11 and the provisions of Title 19, chapter 7, apply to sections  
12 ~~7-through-9~~ 5 AND 6.

13 (4) Sections ~~10-through-12~~ 7 AND 8 are intended to be  
14 codified as an integral part of Title 19, chapter 8, part 7,  
15 and the provisions of Title 19, chapter 8, apply to sections  
16 ~~10-through-12~~ 7 AND 8.

17 ~~{5}--Section--15--is--intended--to--be--codified--as--an~~  
18 ~~integral-part-of-Title--19--chapter--9--part--9--and--the~~  
19 ~~provisions-of-Title--19--chapter--9--apply-to-section--15.~~

-End-



TED SCHWINDEN  
GOVERNOR

State of Montana  
Office of the Governor  
Helena 59620

April 18, 1981

The Honorable Jean A. Turnage  
President of the Senate  
State Capitol  
Helena, Montana 59620

The Honorable Robert L. Marks  
Speaker of the House  
State Capitol  
Helena, Montana 59620

Dear Senator Turnage and Representative Marks:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return House Bill No. 372, "AN ACT TO PROVIDE A METHOD FOR REVIEWING DISABILITY RETIREMENT BENEFITS OF THE JUDGES', HIGHWAY PATROLMEN'S, SHERIFFS', GAME WARDENS', AND MUNICIPAL POLICE OFFICERS' RETIREMENT SYSTEMS; AMENDING SECTIONS 19-9-901, 19-9-904, and 19-9-905, MCA," without my signature and recommend the attached amendment.

The purpose of my proposed amendment is simply to change an incorrect reference to the Department of Highways to the Department of Justice.

I urge your concurrence in this amendment.

Sincerely,

TED SCHWINDEN  
Governor

