

House Bill 553

In The House

January 29, 1981	Introduced and referred to Committee on State Administration.
January 31, 1981	Fiscal note requested.
February 10, 1981	Fiscal note returned.
April 23, 1981	Died in Committee.

1 HOUSE BILL NO. 553
2 INTRODUCED BY Brand Merdhan Amstad

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A MUNICIPAL
5 FIREFIGHTERS' RETIREMENT SYSTEM AND PROVIDING FOR ITS
6 ADMINISTRATION; AMENDING SECTIONS 19-9-1007, 19-11-401,
7 19-11-403, 19-11-504, 19-11-512 THROUGH 19-11-514,
8 19-11-606, AND 19-12-301, MCA; REPEALING SECTIONS 19-11-301
9 THROUGH 19-11-303, MCA; AND PROVIDING AN EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 NEW SECTION. Section 1. Short title. [Sections 1
13 through 49] may be cited as the "Municipal Firefighters'
14 Retirement Act".

15 NEW SECTION. Section 2. Purpose -- application of
16 prior law. (1) Because cities other than those of the first
17 or second class currently have fire department relief
18 associations, the legislature finds and declares that the
19 law regarding these associations cannot be repealed. It is
20 the express intention of the legislature to allow two
21 separate and distinct retirement systems to exist. The
22 first, which includes fire department relief associations,
23 applies to cities other than those of the first or second
24 class that wish to adopt it. The second, created by
25 [sections 1 through 49], applies to cities of the first or

1 second class and those other cities that wish to adopt it.
2 The purpose of the second system is to provide equity and
3 security for retired firefighters who served cities of the
4 first and second class and other cities electing to join the
5 plan by creating a centrally administered system responsible
6 for continuing all retirement payments from the assets of
7 the system.

8 (2) Title 19, chapter 11, may not be applied in any
9 way to a city operating under the plan created by [sections
10 1 through 49].

11 NEW SECTION. Section 3. Municipal firefighters'
12 retirement system established. A municipal firefighters'
13 retirement system is established and shall be governed by
14 the provisions of [sections 1 through 49].

15 NEW SECTION. Section 4. Definitions. Unless the
16 context requires otherwise, the following definitions apply
17 in [sections 1 through 49]:

18 (1) "Administrator" means the public employees'
19 retirement division of the department of administration.

20 (2) "Board" means the retirement board described in
21 2-15-1009.

22 (3) "Credited service" means the aggregate of a
23 member's prior service and membership service.

24 (4) "Employer" means any city that is of the first or
25 second class or that elects to join this plan under [section

1 8].

2 (5) "Final average salary" means the monthly
3 compensation of a member, averaged over the last 12 months
4 of his active service, or if he has not been a member that
5 long, over the period of his membership.

6 (6) "Firefighter" means a person employed as a fully
7 or partly paid firefighter by an employer.

8 (7) "Fund" means the agency account in the state
9 treasury system designated for the use of the plan.

10 (8) "Member" means a person who is employed by an
11 employer as a fully or partly paid firefighter or who is
12 entitled to a retirement allowance by virtue of his service
13 to an employer as a firefighter.

14 (9) "Member contributions" means the total of the
15 deductions from a member's compensation made during a period
16 of active membership under [sections 1 through 49] or made
17 under a prior plan and transferred to this plan, standing to
18 his credit, together with the interest thereon.

19 (10) "Membership service" means a period of employment
20 with an employer occurring after July 1, 1981, during which
21 the withholdings required by [sections 1 through 49] have
22 been made from a member's monthly compensation and credited
23 to his member contributions account. Pro rata credit shall
24 be granted for employment on a part-time basis or for
25 employment over a period of less than a complete fiscal

1 year.

2 (11) "Minimum retirement date" means the first day of
3 the month coinciding with or immediately following, if none
4 coincides, the date on which a member becomes both age 50 or
5 older and completes 10 or more years of credited service.

6 (12) "Monthly compensation" means the wage, excluding
7 overtime, holiday payments, shift differential payments,
8 compensation time payments, and payments in lieu of sick
9 leave and annual leave, a member receives as an active
10 firefighter.

11 (13) Any reference to "municipality", "city", or "town"
12 includes those jurisdictions which, prior to the effective
13 date of a county-municipal consolidation, were incorporated
14 municipalities, subsequent districts created for urban
15 firefighting services, or the entire county included in the
16 county-municipal consolidation.

17 (14) "Plan" means the municipal firefighters'
18 retirement system created by [sections 1 through 49].

19 (15) "Prior plan" means the fire department relief
20 association plan of a city that elects to join the plan
21 under [section 8] or the fire department relief association
22 plan of a city of the first or second class.

23 (16) "Prior service" means a period of employment as a
24 firefighter for which credit was granted to a member under a
25 prior plan and has been transferred to this plan.

1 (17) "Retirement allowance" means the monthly benefit
2 payable after service or disability retirement.

3 (18) "Retirement date" means the date on which the
4 first payment of the retirement or disability benefits of a
5 member or a beneficiary is payable.

6 (19) "Totally and permanently disabled" means that the
7 board, upon certification by a licensed and practicing
8 physician, has determined that a member's disability is of
9 such a nature as to permanently impair his ability to
10 discharge his normal duties as a firefighter.

11 NEW SECTION. Section 5. Transfer of assets and
12 liabilities from prior plans. All funds and obligations
13 constituting the assets and liabilities of prior plans,
14 regardless of their form or who holds them, must be
15 transferred to the account provided for in [section 21]. The
16 board shall determine the amounts to be apportioned to each
17 account on [the effective date of this section], and the
18 department of administration and the boards of trustees of
19 the fire department relief associations shall transfer such
20 amounts to the appropriate accounts on July 1, 1981.

21 NEW SECTION. Section 6. Effect on members of prior
22 plans. All provisions of this plan are effective as to a
23 member hired on or after July 1, 1981. A firefighter hired
24 before that date who was a member of a prior plan becomes a
25 member of this plan but retains all rights and benefits

1 accrued under a prior plan unless they are amended or
2 revoked by the legislature.

3 NEW SECTION. Section 7. Participation in plan by
4 first or second class cities. Cities of the first and second
5 class must participate in the plan. If a city of the first
6 or second class is reduced to a city of the third class or a
7 town under 7-1-4118, it must continue to participate in the
8 plan as long as it has an organized fire department.

9 NEW SECTION. Section 8. Election to join plan --
10 transfer of assets. (1) A city other than one of the first
11 or second class may, as of July 1, 1981, elect to join the
12 plan by passing an ordinance stating the election and the
13 consent of the city to be bound by the provisions of
14 [sections 1 through 49]. The fire department relief
15 association of the city shall pass a resolution to the same
16 effect. Upon the enactment of such an ordinance and the
17 passage of such a resolution, the provisions of [sections 1
18 through 49] become applicable to the city. Any city which
19 enacts such an ordinance and in which the fire department
20 relief association passes such a resolution shall send
21 certified copies thereof to the board and shall, as soon as
22 possible thereafter, deposit with the board all cash and
23 securities held by its fire department relief association.
24 The value of the securities shall be determined by the
25 board.

1 (2) The board of trustees of the fire department
2 relief association as of the effective date of the election
3 shall certify the proportion, if any, of the funds of the
4 association that represents the accumulated contributions of
5 the active members and the relative shares of the members as
6 of that date. Following the transfer of the cash and
7 securities required by subsection (1) and the certification
8 required by this subsection, the fire department relief
9 association may conclude its affairs. The shares of the
10 members shall be charged to the employer and credited to the
11 respective individual accounts of the members in the plan
12 and administered as if the contributions had been made
13 during membership in the plan. Any excess of employer
14 credits over charges under this section will be offset, with
15 interest, against future required employer contributions.
16 Any excess of employer charges over credits under this
17 section are payable by the employer, with interest, on a
18 basis determined by the procedure described in [section 23].

19 **NEW SECTION.** Section 9. Penalty for fraud. (1) No
20 person may knowingly make any false statement or permit to
21 be falsified any records of the plan in an attempt to
22 defraud the plan.

23 (2) A person who violates any of the provisions of
24 subsection (1) is guilty of a misdemeanor and upon
25 conviction shall be punished by a fine not exceeding \$500 or

1 imprisonment in the county jail for a term not exceeding 6
2 months, or both.

3 **NEW SECTION.** Section 10. Power and duties of board.
4 The powers and duties of the board include:

5 (1) administering, interpreting, and enforcing the
6 provisions of [sections 1 through 49];

7 (2) establishing uniform rules to administer the
8 provisions of [sections 1 through 49];

9 (3) determining the conditions under which persons may
10 become members of and receive benefits under the retirement
11 system; and

12 (4) determining and modifying allowances for
13 retirement and disability under [sections 1 through 49].

14 **NEW SECTION.** Section 11. Department to provide forms
15 -- information from employers. The department of
16 administration shall prepare such forms as it finds
17 necessary for the employers to complete to provide all the
18 information necessary to administer [sections 1 through 49],
19 and the cities shall give the department of administration
20 all data necessary to carry out the purpose and intent of
21 [sections 1 through 49].

22 **NEW SECTION.** Section 12. Administrative expenses. (1)
23 The expense of administering [sections 1 through 49],
24 exclusive of the payment of retirement allowances and other
25 benefits, may be paid from the fund.

1 (2) Before July 15 of each year, the board may compute
2 the administrative costs for the immediately preceding
3 fiscal year and transfer that amount from the fund to the
4 public employees' retirement system account in the agency
5 fund.

6 NEW SECTION. Section 13. Active membership. (1) A
7 firefighter becomes an active member under the plan:

8 (a) on the first day of his employment by an employer;

9 (b) on July 1, 1981, if he is employed by an employer
10 on that date; or

11 (c) in the case of an employer that elects to join the
12 plan as provided in [section 8], on the effective date of
13 such election if he is employed by the employer on that
14 date.

15 (2) Upon becoming eligible for membership, he shall
16 complete such forms and furnish such proof as may be
17 required by the board.

18 NEW SECTION. Section 14. Ineligibility for other
19 retirement plans. No active member is eligible to be covered
20 under any other mandatory retirement plan for firefighters
21 to which an employer is required to contribute on his behalf
22 while he is eligible to be covered by this plan.

23 NEW SECTION. Section 15. Inactive membership. (1) An
24 active member becomes an inactive member upon the occurrence
25 of the earlier of the following:

1 (a) the date he ceases to be employed by an employer
2 and becomes entitled to a retirement allowance;

3 (b) the date of commencement of an approved absence of
4 no more than 1 year from active duty with an employer.

5 (2) An inactive member becomes an active member on the
6 day he returns to active duty with an employer. Upon again
7 becoming an active member, his retirement allowance, if any,
8 shall cease being paid to him until he again becomes an
9 inactive member.

10 NEW SECTION. Section 16. Termination of employment
11 prior to retirement. (1) Except as provided in subsection
12 (2), an active member shall withdraw the amount of his
13 member contributions in lieu of all other benefits under the
14 plan upon his termination of employment prior to his
15 retirement. If he has 10 years or more of service, the
16 amount paid shall include regular interest, at a rate to be
17 determined by the board, on such amounts. If he has less
18 than 10 years of service, he shall receive only the amount
19 paid through salary deductions, without interest. If an
20 active member's employment terminates by reason of his
21 death, his beneficiaries are entitled to the benefits
22 prescribed in [section 44].

23 (2) If a member has 10 years or more of creditable
24 service before termination, he may keep his contributions on
25 deposit and be eligible for a service retirement at age 50.

1 NEW SECTION. Section 17. Cessation of membership. A
2 member shall cease to be a member upon the occurrence of the
3 earlier of the following:

4 (1) the date he withdraws his member contributions in
5 lieu of all other benefits under the plan;

6 (2) the date of his death.

7 NEW SECTION. Section 18. Credited service to be
8 cumulative. A member is entitled to benefits upon the entire
9 period of his credited service and final average salary
10 without regard to the number of employers by whom he was
11 employed or the number of periods of his employment so that
12 no duplication of credited service occurs.

13 NEW SECTION. Section 19. Military service. (1) A
14 firefighter inducted into the armed forces of the United
15 States has the option to:

16 (a) continue his payments into the account; or

17 (b) allow the board to make his payments for him
18 during his military service, in which event he must repay
19 the account the full amount of the payments within 2 years
20 after his return to active firefighter status.

21 (2) If a member chooses one of the options in
22 subsection (1) and meets its requirements, he shall receive
23 credit for his service in the armed forces of the United
24 States as if it were service as a firefighter.

25 NEW SECTION. Section 20. Election to qualify previous

1 military service. (1) A member with 15 years or more of
2 service may, at any time prior to his retirement, make a
3 written election with the board to qualify all or any
4 portion of his active service in the armed forces of the
5 United States for the purpose of calculating retirement
6 benefits, up to a maximum of 5 years, if he is not otherwise
7 eligible to receive credit. To qualify this service he must
8 contribute to the account the actuarial cost of granting the
9 service to be determined by the board based on his
10 compensation and normal contribution rate as of his 16th
11 year and as many succeeding years as are required to qualify
12 this service, with interest from the date he becomes
13 eligible for this benefit to the date he contributes. He may
14 not qualify more of his military service than he has service
15 in excess of 15 years. Military service purchased under this
16 section may not be used in determining eligibility for a
17 service retirement requiring a minimum of 10 years of
18 service.

19 (2) If a member has retired from active duty in the
20 armed forces of the United States with normal service
21 retirement benefits, he may not qualify his military service
22 under subsection (1). However, a member who is serving or
23 has served in the military reserves with the expectation of
24 receiving a military service pension may qualify his active
25 military service under subsection (1) if his active duty in

1 the armed forces of the United States is not more than 25%
2 of the total of all his years of military service, including
3 reserve and active duty time.

4 NEW SECTION. Section 21. Retirement account.
5 Beginning July 1, 1981, an account in the agency fund shall
6 be maintained on behalf of the plan. The state treasurer is
7 the custodian of the account subject to the exclusive
8 administrative control of the board.

9 NEW SECTION. Section 22. Management of funds by
10 department of administration. Except as otherwise provided
11 in [sections 1 through 49], the department of
12 administration, through the administrator and the board of
13 investments, shall administer, invest, account for, and
14 treat the funds deposited with it under [sections 1 through
15 49] according to the rules addressing the public employees'
16 retirement system, insofar as such rules are not
17 inconsistent with those promulgated and adopted by the
18 board. The contributions of the state, employers, and
19 members paid to the administrator under [sections 1 through
20 49] may be commingled for investment purposes.

21 NEW SECTION. Section 23. Unfunded liabilities. (1)
22 The legislature finds and declares that many cities
23 operating under prior plans have excess and unfunded
24 liabilities under such prior plans and that these
25 liabilities cannot be amortized by the percentage

1 contributions set forth in [sections 1 through 49].

2 (2) The administrator shall, on or before October 1,
3 1982, determine the excess and unfunded liability of each
4 city participating in the plan created by [sections 1
5 through 49]. The determination of the administrator must be
6 negotiated between each city and the administrator. Each
7 city found by the administrator to have an excess and
8 unfunded liability under a prior plan which, as of July 1,
9 1981, is not funded by sums on deposit or funds available
10 for deposit with the administrator shall pay an additional
11 sum over a period of time to amortize its excess liability
12 as determined by agreement between the city and the
13 administrator.

14 (3) Each city found by the administrator to be paying
15 an amount in excess of the amount necessary to amortize its
16 liabilities under the prior plan and under [sections 1
17 through 49] shall receive a credit in the accounts of the
18 administrator for any such excess payments.

19 (4) For each city with an unfunded liability, any
20 portion of the member, employer, and state contributions
21 that exceeds the amount necessary to maintain the current
22 level of unfunded liability must be applied to the reduction
23 of the unfunded liability.

24 NEW SECTION. Section 24. Actuarial valuation. The
25 board shall engage the services of a qualified actuary to

1 conduct an actuarial valuation of the plan in each
 2 even-numbered year. It shall include the actuary's
 3 determination of the financial condition of the plan, the
 4 level of annual contributions required to maintain the plan
 5 on an actuarially sound basis, and if applicable, the level
 6 of annual contributions required to amortize the excess and
 7 unfunded liabilities described in [section 23]. A qualified
 8 actuary is one who is a member of the American academy of
 9 actuaries or of any organization considered by the board to
 10 have similar standards.

11 NEW SECTION. Section 25. Transfer of dormant member
 12 account. The board may, in its discretion, transfer member
 13 contributions to the employer's account if the member's
 14 contribution account has been dormant for a period of 10
 15 years. No right of the member may be jeopardized by such a
 16 transfer, and the member contributions shall be transferred
 17 back to the member's name upon his subsequent reinstatement
 18 as a member.

19 NEW SECTION. Section 26. Member contributions. The
 20 treasurer or other appropriate official of each employer
 21 shall retain from the monthly compensation of each active
 22 member a sum equal to 7% or, for a member first employed by
 23 an employer as a firefighter before July 1, 1981, 6% of his
 24 monthly compensation for his services as a firefighter. The
 25 monthly deduction from the salaries of firefighters shall be

1 paid to the administrator for the purpose of paying the
 2 retirement allowances of retired firefighters.

3 NEW SECTION. Section 27. Vesting and withdrawal of
 4 contributions. A member is at all times fully vested in the
 5 deductions made from his compensation as a member or as a
 6 member of a prior plan standing to his credit and may, at
 7 his discretion, withdraw the full amount of these deductions
 8 upon his termination of employment in accordance with
 9 [section 16] and forfeit all rights and interest with
 10 respect to any benefits that would otherwise become payable
 11 under the plan.

12 NEW SECTION. Section 28. Redeposit of amounts
 13 withdrawn upon reinstatement. (1) Upon reinstatement to
 14 active membership, a member may redeposit in the fund, in
 15 one lump sum or in installments not to exceed 12 monthly or
 16 24 semimonthly installments, an amount equal to the member
 17 contributions that he withdrew plus an amount equal to the
 18 interest that would have been credited to his account had he
 19 not withdrawn his member contributions. If a member makes
 20 such a redeposit, his credited service shall be reinstated.

21 (2) If an active member does not elect to make the
 22 redeposit provided for in subsection (1), he forfeits his
 23 credited service for the period attributable to the
 24 withdrawn member contributions.

25 NEW SECTION. Section 29. Payment of employer and

1 state contributions. Employer and state contributions shall
 2 be paid to the administrator who shall, as soon as
 3 practicable after their receipt, deposit them with the state
 4 treasurer.

5 NEW SECTION. Section 30. State contribution. The
 6 state shall make its contributions through the state auditor
 7 out of the premium taxes on the insurance risks enumerated
 8 in 19-11-512. Such payments shall be made annually on or
 9 before August 1 from the gross premium taxes after deduction
 10 for cancellations and returned premiums. The administrator
 11 shall notify the auditor of the annual compensation paid to
 12 all active members during the preceding year, and the
 13 state's contribution is 14% of such compensation.

14 NEW SECTION. Section 31. Employer contribution. Each
 15 employer shall make its contribution on behalf of members
 16 through the city treasurer or other appropriate official out
 17 of money available to the city for such purpose. The
 18 employer's contribution is 14% of the total monthly
 19 compensation paid to all active members during the preceding
 20 month and is payable monthly to the administrator.

21 NEW SECTION. Section 32. Taxing authority of
 22 employers. (1) For the purpose of making contributions
 23 required of a city under [sections 1 through 49], whenever
 24 the demand for deposits of such contributions cannot be met
 25 within the general taxing authority and other revenues

1 available to the city for that purpose, the appropriate
 2 authority of the city may levy any additional tax authorized
 3 by law until the general taxing authority and other revenue
 4 available for that purpose is sufficient to meet the demand.

5 (2) "General taxing authority", as used in this
 6 section, means that levy which the city may make under the
 7 all-purpose levy or under multiple-purpose levies, if the
 8 city is using multiple-purpose levies.

9 (3) No provision of any statute relating to the
 10 all-purpose levy may be so construed as to limit the
 11 additional taxing authority created by this section.

12 NEW SECTION. Section 33. Other money credited as
 13 employer contributions. All gifts, bequests, and emoluments
 14 given to an employer or member for the benefit of the plan
 15 or because of any member's service as a firefighter, except
 16 when specifically allowed to be retained by the member by
 17 his employer, and all money withheld from the monthly
 18 compensation of a member for violation of the rules of his
 19 employer shall be paid to the administrator. The
 20 administrator shall credit them to the fund and, as soon as
 21 practicable after their receipt, deposit them with the state
 22 treasurer. Such amounts are employer contributions but are
 23 in addition to the amounts required by [section 31].

24 NEW SECTION. Section 34. Eligibility for service
 25 retirement. The following members are eligible for service

1 retirement:

2 (1) a member who has reached the age of 50 and has
3 completed 10 years or more in the aggregate as a firefighter
4 in any capacity or rank;

5 (2) a member who has reached mandatory retirement age
6 under [section 35] regardless of his number of years of
7 service.

8 **NEW SECTION.** Section 35. Mandatory retirement. (1) An
9 active member must retire on the first day of the month
10 coinciding with or immediately following, if none coincides,
11 the date on which he reaches age 65.

12 (2) A member who reaches mandatory retirement age may
13 not be allowed creditable service for services rendered
14 after the mandatory retirement date or contribute to the
15 retirement system after this date.

16 **NEW SECTION.** Section 36. Application for service
17 retirement. On or after a member's minimum retirement date
18 and prior to his mandatory retirement date, he may retire on
19 a service retirement allowance by making written application
20 to the employer. The employer shall forward the application
21 to the board not less than 30 days or more than 90 days
22 before the elected retirement date. The application shall
23 state the elected retirement date.

24 **NEW SECTION.** Section 37. Amount of retirement
25 allowance. (1) A member who is eligible under subsection (1)

1 of [section 34] shall receive a service retirement allowance
2 equal to 2 1/2% of his final average salary for each year of
3 service up to 20 years plus 1% of his final average salary
4 for each year of service past 20 years up to a maximum of 10
5 years.

6 (2) A member who is eligible under subsection (2) of
7 [section 34] shall receive a service retirement allowance
8 equal to one-half his final average salary.

9 (3) A firefighter who is retired under [section 34(2)]
10 and who was theretofore eligible at his option to be retired
11 under [section 34(1)] but elected to serve additional years
12 shall be paid for the additional years over his original
13 eligibility at the rate prescribed in subsection (2).

14 **NEW SECTION.** Section 38. Board's determination of
15 disability. The board shall determine whether a member has
16 become totally and permanently disabled. In making this
17 determination, the board, any member thereof, or any
18 authorized representative of the board may order medical
19 examinations, conduct hearings, administer oaths and
20 affirmations, take depositions, certify to official acts,
21 and issue subpoenas to compel the attendance of witnesses
22 and the production of books, papers, correspondence,
23 memoranda, and documents considered necessary as evidence in
24 connection with the claim for disability retirement. The
25 board shall secure medical service and advice necessary to

1 carry out the purposes of this section and shall pay
2 compensation that the board considers reasonable for those
3 medical services and advice.

4 NEW SECTION. Section 39. Eligibility for disability
5 retirement. If a member is determined by the board to be
6 totally and permanently disabled, he is entitled to receive
7 a disability retirement allowance, regardless of the length
8 of his service, beginning the first day after the date on
9 which he became totally and permanently disabled.

10 NEW SECTION. Section 40. Amount of retirement
11 allowance. (1) A firefighter who is eligible under [section
12 39] before completing 20 years of service shall receive a
13 disability retirement allowance equal to one-half his
14 average final salary.

15 (2) A firefighter who is retired under [section 39]
16 and who, at the time of his injury or disability, had more
17 than 20 years of service shall be paid for the years in
18 excess of 20 at the rate prescribed in [section 37(1)].

19 NEW SECTION. Section 41. Disability allowance reduced
20 by earnings. (1) If the recipient of a disability retirement
21 allowance engages in a gainful occupation during any month,
22 the amount of his retirement allowance for that month must
23 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 38] to implement this section.

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

6 NEW SECTION. Section 42. Medical examination of
7 disability retiree -- cancellation of allowance. The board,
8 in its discretion, may require the recipient of a disability
9 retirement allowance to undergo a medical examination. The
10 examination must be made by a physician or surgeon at the
11 recipient's place of residence or at another place mutually
12 agreed on. Upon the basis of the examination, the board
13 shall determine, by reason of physical or mental capacity,
14 whether the recipient can perform the duties of the position
15 held by him when he was retired. If an inactive member is
16 determined by the board to be no longer totally and
17 permanently disabled or if he refuses to submit to a medical
18 examination, his disability retirement allowance shall cease
19 as of the date of such determination or refusal and he shall
20 be notified of the determination by the board. The board may
21 review the status of any inactive member at any time.

22 NEW SECTION. Section 43. Reinstatement upon
23 termination of allowance. (1) Any inactive member whose
24 disability retirement allowance is cancelled as provided in
25 [section 42] shall be reinstated to the position held by him

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

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

13 (3) If the inactive member again becomes an active
 14 member by returning to active work for an employer within 30
 15 days following his receipt of notice under [section 42], he
 16 shall be considered to have been continuously employed
 17 during the term of his disability. If the inactive member
 18 fails to become an active member by returning to active work
 19 for an employer within 30 days following receipt of such
 20 notice, his termination of employment shall be considered to
 21 have occurred as of his disability retirement date and the
 22 retirement allowance, if any, to which he becomes entitled
 23 on his service retirement shall be determined accordingly.

24 NEW SECTION. Section 44. Death benefits. (1) A
 25 member's retirement allowance shall be paid first to the

1 member during his lifetime and, upon his death, in the
 2 manner and to the persons designated in subsection (2).

3 (2) Upon the death of a firefighter before or after
 4 retirement, his surviving spouse, if there is one, shall, as
 5 long as such spouse remains the surviving spouse, be paid
 6 from the fund a sum equal to one-half of the firefighter's
 7 final average salary. If the firefighter leaves one or more
 8 dependent minor children, then, upon his death if he leaves
 9 no surviving spouse or upon the death or remarriage of the
 10 surviving spouse, his surviving dependent minor children,
 11 collectively if there is more than one, shall receive the
 12 same monthly payments a surviving spouse would receive,
 13 until they reach the age of 18 years or are married. The
 14 payments shall be made to their appointed, qualified, and
 15 acting guardian for their use. If there is more than one
 16 such child, upon each child reaching the age of 18 years or
 17 marrying, the pro rata payments to that child shall cease
 18 and shall be made to the remaining children until all the
 19 children have reached the age of 18 years or are married.

20 NEW SECTION. Section 45. Retirement allowances to be
 21 monthly and fixed. The retirement allowances granted under
 22 the provisions of [sections 1 through 49] shall be paid in
 23 monthly installments. They may not be increased or
 24 decreased, except as specifically provided in [sections 1
 25 through 49], or repealed or revoked except by the

1 legislature.

2 NEW SECTION. Section 46. Correction of erroneous
3 payments. If any change in records fraudulently made or any
4 mistake in records inadvertently made results in any member,
5 survivor, or beneficiary receiving more or less than he was
6 entitled to, then, on the discovery of the error, the board
7 shall correct the error and adjust the payments to the
8 member, survivor, or beneficiary in an equitable manner.

9 NEW SECTION. Section 47. Exemption from taxes. Any
10 money received as a retirement allowance in accordance with
11 the provisions of [sections 1 through 49] is exempt from any
12 state or municipal tax.

13 NEW SECTION. Section 48. Protection from legal
14 process -- unassignability. The benefits payable under
15 [sections 1 through 49] are not subject to the claims of any
16 creditor of a member, beneficiary, or survivor or to
17 attachment, garnishment, or other legal or equitable
18 process. No member, beneficiary, or survivor may alienate,
19 anticipate, commute, pledge, encumber, assign, or sell any
20 of such benefits.

21 NEW SECTION. Section 49. Supplement to certain
22 retirement allowances. The plan shall pay to each
23 firefighter retired before July 1, 1973, or his surviving
24 spouse and children a monthly retirement allowance of not
25 less than one-half the regular monthly salary paid to a

1 confirmed active firefighter of the city that last employed
2 him as a firefighter, as provided each year in the budget of
3 that city. In the case of volunteer firefighters, the
4 retirement allowance may not exceed \$75 per month.
5 Distribution of the funds provided for this purpose under
6 19-11-606(1) shall be made as follows:

7 (1) At the beginning of each fiscal year the
8 administrator shall request and the state auditor shall
9 issue from the earmarked revenue fund and deliver to the
10 administrator an amount certified to be equal to the total
11 annual dollar difference between what the retirees or their
12 surviving spouses and children received from the fund and
13 one-half of the salary paid by the respective city or town
14 to a confirmed active firefighter for the fiscal year just
15 preceding.

16 (2) The administrator shall use the funds to increase
17 the monthly retirement allowances of the retirees or their
18 surviving spouses and children to an amount equal to
19 one-half of the salary that was paid to a confirmed active
20 firefighter in the respective city or town for the preceding
21 year.

22 Section 50. Section 19-9-1007, MCA, is amended to
23 read:

24 "19-9-1007. Supplement to certain pensions. (1) The
25 payment for each fiscal year to the police officers,

1 spouses, or minor children described in subsections (2)(a)
 2 through (2)(c) may be not less than one-half of the base
 3 salary paid in the previous calendar year in the appropriate
 4 city or town to newly confirmed police officers, except that
 5 for the fiscal year beginning July 1, 1979, all retirees and
 6 their beneficiaries who received a supplement to their
 7 retirement allowance on July 1, 1978, and are receiving an
 8 allowance on July 1, 1979, shall receive a 3% increase in
 9 their retirement allowance in lieu of any other increase.

10 (2) On or before April 1 of each year, the department
 11 of administration shall make a report to the state auditor
 12 including the following information:

13 (a) the names of all police officers who are receiving
 14 payments from the plan as of the date of the report and were
 15 receiving payments from a prior plan before July 1, 1975;

16 (b) the names of all spouses or minor children who are
 17 receiving payments from the plan because of the death of a
 18 police officer who was receiving payments from a prior plan
 19 before July 1, 1975;

20 (c) the names of all spouses or minor children who are
 21 receiving payments from the plan and who were receiving
 22 payments from a prior plan before July 1, 1975, or in the
 23 case of minor children, whose parent, the spouse of a police
 24 officer, was receiving payments from a prior plan before
 25 July 1, 1975;

1 (d) for the purpose of determining the base figure for
 2 the computations set forth in subsection (3), the following
 3 information relating to the base fiscal year commencing July
 4 1, 1976:

5 (i) the amount of the payments made in the base fiscal
 6 year to each police officer described in subsection (2)(a);

7 (ii) the amount of the payments made in the base fiscal
 8 year to each spouse or minor child (or children) described
 9 in subsection (2)(b) or (2)(c);

10 (iii) upon the death after April 18, 1977, of any
 11 police officer on the retired list who was receiving
 12 payments from a prior plan before July 1, 1975, and who is
 13 survived by a spouse or minor children entitled to receive
 14 payments from the plan, the amount which would have been
 15 paid to an eligible spouse of such police officer had that
 16 spouse been receiving payments in the base fiscal year;

17 (e) the base salary for the previous calendar year of
 18 a newly confirmed police officer of each city or town
 19 participating in the plan.

20 (3) The state auditor shall, upon receipt of the
 21 report referred to in subsection (2), compute the difference
 22 between each amount reported under subsections (2)(d)(i)
 23 through (2)(d)(iii) and one-half the base salary for the
 24 previous calendar year of a newly confirmed police officer
 25 of the appropriate city or town. The difference shall be

1 paid by the state auditor out of the premium tax collected
 2 on insurance sold in this state to insure against the risks
 3 enumerated in 19-11-512~~(5)~~(3) to the administrator no later
 4 than May 31 of each year. This payment is in addition to the
 5 payment to be made by the state auditor under 19-9-702. The
 6 administrator shall use the funds received under this
 7 subsection to supplement the monthly payments to persons
 8 described in subsections (2)(a) through (2)(c) so that the
 9 requirements of subsection (1) are met.

10 (4) In addition to the payments made by the auditor as
 11 provided in subsection (3), the auditor shall make annual
 12 payments of \$100,000 on or before June 30 of each year until
 13 the sum of \$500,000 has been paid to the administrator for
 14 deposit in the retirement account. These payments are to be
 15 made to reimburse the retirement account for funds advanced
 16 to implement this section.

17 (5) If more than one minor child is entitled to
 18 supplementary payments under this section by virtue of the
 19 death of a common parent police officer, the minimum payment
 20 to such minor children under this section shall be
 21 determined as if there were one such minor child and the
 22 supplementary payment shall be made to the minor children
 23 collectively."

24 Section 51. Section 19-11-401, MCA, is amended to
 25 read:

1 "19-11-401. Management of association. The management
 2 of the fire department relief associations ~~in municipalities~~
 3 ~~other--than--first--and--second--class--cities~~ is vested in the
 4 boards of trustees, except as provided in 19-11-402 and
 5 19-11-403."

6 Section 52. Section 19-11-403, MCA, is amended to
 7 read:

8 "19-11-403. Investment of fund by board of
 9 investments. ~~11~~ ~~When~~ ~~Whenever~~ the average yield on
 10 investments of public retirement funds under the board of
 11 investments exceeds by 1% in any fiscal year the average
 12 yield on investments of the fund made pursuant to 19-11-402,
 13 the surplus money in the fund shall be remitted to the state
 14 treasurer for investment by under the direction of the board
 15 of investments as is provided in ~~19-11-302 for associations~~
 16 ~~in--first--and--second--class--cities 17-6-204~~. The department
 17 of community affairs shall advise the association of the
 18 current yield on investments of public retirement funds.

19 ~~(2) As used in subsection (1), "surplus money" means~~
 20 ~~the excess over the greater of the following:~~

21 ~~(a) 1 1/2 times the monthly benefit paid in the~~
 22 ~~preceding month; or~~

23 ~~(b) \$5,000."~~

24 Section 53. Section 19-11-504, MCA, is amended to
 25 read:

1 "19-11-504. Amount of special tax levy. ~~{1}~~ Whenever
2 the total amount of the fund is less than 2% of the taxable
3 valuation of all taxable property within the limits of the
4 city or town, the special tax levy shall be:

5 ~~{a}~~ not less than 1 mill or more than 4 mills on each
6 dollar of taxable valuation of all taxable property within
7 the limits of the city or town; and

8 ~~{b}~~ an amount sufficient to provide a growth per year
9 in the fund, considering all sources of income to the fund
10 and the payment of obligations out of the fund equal to the
11 sum produced by 1 mill levied on the taxable valuation of
12 all the taxable property in the city or town;

13 ~~{2}~~ The special tax levy shall be a fractional part of
14 1 mill whenever:

15 ~~{a}~~ the total amount of the fund is less than 2% but
16 more than 1% of the taxable valuation of all taxable
17 property within the city or town; and

18 ~~{b}~~ the special tax levy of a fractional part of 1
19 mill will produce sufficient revenue to cause the fund,
20 considering all sources of income to the fund and all
21 payments to be made out of the fund, to exceed 2% of the
22 taxable valuation of all taxable property within the city or
23 town;

24 ~~{3}~~ In cities of the third class, when whenever the
25 fund contains an amount which is less than 2% of the taxable

1 valuation of all taxable property in the city or town, the
2 city council shall levy an annual special tax of not less
3 than 1 mill and not more than 4 mills on each dollar of
4 taxable valuation of all taxable property within the city or
5 town."

6 Section 54. Section 19-11-512, MCA, is amended to
7 read:

8 "19-11-512. State auditor to pay association out of
9 insurance premium taxes. ~~{1}~~ At the end of the fiscal year,
10 the state auditor shall issue and deliver the payment
11 described in this subsection to the board of investments to
12 be credited to the account of each fire department relief
13 association of any city or town of the first or second class
14 which has a fire department relief association entitled by
15 law to receive payments. The state auditor shall at the
16 same time report to the treasurer of the association the
17 amount of the payments. The payment shall be for the use and
18 benefit of the association. It shall be paid out of the
19 premium taxes on insurance risks enumerated in subsection
20 ~~{6}~~ collected by the state auditor and shall be equal to 10%
21 of the total annual compensation paid by the city or town to
22 its paid or part-paid firefighters for services in the
23 previous calendar year. The city clerk of the city or town
24 shall certify in writing to the state auditor on or before
25 April 1 of each year, the amount paid by the city or town as

1 compensation-for-services-to-paid-or-part-paid-firefighters*
 2 {2}--When-there-is-a-disaster--resulting--in--death--or
 3 injury--sufficient-to-draw-the-pensions-of-10%-of-the-active
 4 force-and-the-fund, after-receiving-all-moneys-provided--for
 5 in--19-11-501,--19-11-503,--19-11-504,--and-subsection-(1)-of
 6 this-section, does-not--show--at--least--the--1-mill--growth
 7 referred--to--in-19-11-504, the-treasurer-of-the-association
 8 shall-request-and-the-state-auditor-shall-issue-and-deliver
 9 an-additional-payment-under-the-same-conditions-described-in
 10 subsection-(1)*. The-payment-shall-be-in-an-amount-sufficient
 11 to--cause--at-least-the-above-mentioned-1-mill-growth-in-the
 12 funds.

13 {3}--If-a-city-is-not-entitled-to-receive-a--sum-equal
 14 to--1-1/2-mills-of-its-total-taxable-value-under-subsections
 15 (1)-and-(2), the--payment--shall--be--made--in--the--amount
 16 provided--in-subsections-(4)-and-(5)-for-cities-of-the-third
 17 class-and-in-the-manner-described-in-subsection-(1)*.

18 {4}{1} At the end of the fiscal year, the state
 19 auditor shall issue and deliver the warrant described in
 20 this subsection to the treasurer of every city or town*
 21 except--cities-and-towns-of-the-first-or-second-class, which
 22 has a fire department relief association entitled by law to
 23 receive payments. The warrant shall be for the use and
 24 benefit of the association. It shall be for an amount equal
 25 to 1 1/2 mills of the total taxable value of the city or

1 town and shall be paid out of the premium taxes on insurance
 2 risks enumerated in subsection {6} {3} collected by the
 3 state auditor.

4 {5}{2} If the payment provided for in subsection {4}
 5 {1} is less than \$100, an additional payment shall be made
 6 from the same tax moneys so that the total amount received
 7 is \$100.

8 {6}{3} The risks referred to in subsections subsection
 9 (1) and {4} are:

10 (a) insurance of houses, buildings, and all other
 11 kinds of property against loss or damage by fire or other
 12 casualty;

13 (b) all kinds of insurance on goods, merchandise, or
 14 other property in the course of transportation, whether by
 15 land, water, or air;

16 (c) insurance against loss or damage to motor vehicles
 17 resulting from accident, collision, or marine and inland
 18 navigation and transportation perils;

19 (d) insurance of growing crops against loss or damage
 20 resulting from hail or the elements;

21 (e) insurance against loss or damage by water to any
 22 goods or premises arising from the breakage or leakage of
 23 sprinklers, pumps, or other apparatus;

24 (f) insurance against loss or legal liability for loss
 25 because of damage to property caused by the use of teams or

1 vehicles, whether by accident or collision or by explosion
2 of any engine, tank, boiler, pipe, or tire of any vehicle;
3 and

4 (g) insurance against theft of the whole or any part
5 of any vehicle."

6 Section 55. Section 19-11-513, MCA, is amended to
7 read:

8 "19-11-513. Transfer of premium taxes to state
9 treasury. The state auditor shall estimate the portion of
10 premium taxes needed to make the payments required by this
11 chapter and shall pay an amount equal to the estimate into
12 the state treasury, to the credit of the earmarked revenue
13 fund. ~~The state auditor shall pay the actuary fee as~~
14 ~~required by 19-11-303.~~ Any balances remaining after such
15 payments have been ordered shall be transferred to the
16 general fund."

17 Section 56. Section 19-11-514, MCA, is amended to
18 read:

19 "19-11-514. State treasurer to pay warrants. The state
20 treasurer is hereby authorized and directed, upon the
21 presentation to him of a warrant drawn pursuant to this
22 chapter, to pay*

23 ~~(1) in the case of a municipality other than a city of~~
24 ~~the first or second class~~ to the treasurer of the city or
25 town, out of moneys in the earmarked revenue fund dedicated

1 for such purpose, the amount of such warrant specified,
2 which amount shall be paid by said city treasurer to said
3 fire department relief association*.

4 ~~(2) in the case of a city of the first or second~~
5 ~~class to the board of investments to be credited to the~~
6 ~~account of the fire department relief association out of~~
7 ~~the money in the earmarked revenue fund dedicated for such~~
8 ~~purpose the amount of the warrants"~~

9 Section 57. Section 19-11-606, MCA, is amended to
10 read:

11 "19-11-606. Supplement to certain pensions. (1) In
12 addition to the taxes on premiums required by law to be paid
13 by each insurer doing business in this state that is
14 authorized to effect insurance on risks enumerated in
15 19-11-512, there is a tax of 1 1/2% on the fire portion of
16 the direct premiums received during the calendar year of
17 1975 and each succeeding year, with allowance for
18 cancellations and returned premiums. The insurance
19 commissioner shall collect the tax during March of each year
20 and deposit the moneys in the earmarked revenue fund. The
21 auditor shall pay claims as provided in subsection (2) of
22 this section and [section 49]. As those persons who are to
23 receive the fund die, the tax shall be reduced
24 proportionately, and when no eligible person, as defined by
25 subsection (2) and [section 49], survives, the tax

1 terminates and the remaining funds, if any, shall be
2 transferred to the general fund.

3 (2) Effective January 1, 1976, each association shall
4 pay to the firefighters retired before July 1, 1973, or
5 their surviving spouses and children a monthly pension of
6 not less than one-half the regular monthly salary paid to a
7 confirmed active firefighter of that city, as provided each
8 year in the budget of that city. In the case of volunteer
9 firefighters, the pension may not exceed \$75 per month.
10 Distribution of the funds provided for this purpose under
11 subsection (1) shall be made as follows:

12 (a) At the beginning of each fiscal year the treasurer
13 of each association shall request and the state auditor
14 shall issue from the earmarked revenue fund and deliver ~~in~~
15 ~~the case of a municipality other than a city of the first or~~
16 ~~second class~~ to the treasurer of the respective city or
17 town ~~or in the case of a city of the first or second class~~
18 ~~to the board of investments to be credited to the account of~~
19 ~~the fire department relief association~~ an amount certified
20 to be equal to the total annual dollar difference between
21 what the retirees or their surviving spouses and children
22 received from the fund and one-half of the salary paid by
23 the respective city or town to a confirmed active
24 firefighter for the fiscal year just preceding. The state
25 auditor shall, at the same time, report to the treasurer of

1 the appropriate association the amount of any payment
2 delivered to the board of investments.

3 (b) The treasurer of a city or town receiving funds
4 shall immediately disburse them to the treasurer of the
5 respective association.

6 (c) The treasurer of the association shall utilize
7 these funds to increase the monthly pension of retirees or
8 their surviving spouses and children to an amount equal to
9 one-half of the salary that was paid to a confirmed active
10 firefighter in the city or town for the preceding year."

11 Section 58. Section 19-12-301, MCA, is amended to
12 read:

13 "19-12-301. Fire insurance premium tax to be paid into
14 fund. The state auditor and ex officio commissioner of
15 insurance shall annually deposit in the volunteer
16 firefighters' fund a sum equivalent to 5% of the premium
17 taxes collected from insurers authorized to effect insurance
18 against risks enumerated in 19-11-512, computed after the
19 amounts provided for by [section 30] and 19-11-512 have
20 first been deducted. The moneys shall be used for the
21 payment of claims and administrative costs as provided in
22 this chapter."

23 Section 59. Repealer. Sections 19-11-301 through
24 19-11-303, MCA, are repealed.

25 Section 60. Effective date. (1) Section 5 is effective

LC 0782/01

1 on passage and approval.

2 (2) Sections 1 through 53, except for section 5, are

3 effective on July 1, 1981.

-End-

STATE OF MONTANA

REQUEST NO. 274-81

FISCAL NOTE

Form BD-15

In compliance with a written request received February 2, 19 81, there is hereby submitted a Fiscal Note for House Bill 553 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

To create a Municipal Firefighters' Retirement System and providing for its administration.

Assumptions

1. The salaries of active firemen were assumed to increase 7% annually during the biennium.
2. The employment rate was assumed to follow past trends.
3. The revenue increase to cities was based upon an assumption of current aggregate contributions of 10% of salaries.

<u>Fiscal Impact</u>	<u>FY 1982</u>	<u>FY 1983</u>
State Premium Tax Fund:		
Under Current Law	\$ 946,563	\$1,012,822
Under Proposed Law	<u>1,325,187</u>	<u>1,417,951</u>
Increase	*\$ 378,624	*\$ 405,129
First and Second Class Cities:		
Under Current Law	\$ 946,563	\$1,012,822
Under Proposed Law	<u>1,325,187</u>	<u>1,417,951</u>
Increase	\$ 378,624	\$ 405,124
Member Contribution:		
Under Current Law	\$ 567,938	\$ 607,693
Under Proposed Law	<u>569,187</u>	<u>611,693</u>
Increase	\$ 1,800	\$ 4,000
Total Increased Revenues	\$ 759,048	\$ 814,258

The System's expenditures will increase by the same amount that the revenues increase, with a net effect of \$-0-.

*The increase to the State Premium Tax Fund will result in a corresponding decrease to the General Fund.

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-10-81