

HOUSE BILL NO. 533

INTRODUCED BY DAVIS, WALKER, STIMATZ, MCCORMICK,  
REGAN, QUILICI, JENKINS, MANNING, WALLIN, DRISCOLL,  
HARRINGTON, STORY, PETERSON, COMPTON, O'CONNELL,  
GRADY, MAZUREK, HARPER, VINCENT

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

IN THE HOUSE

FEBRUARY 1, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
FEBRUARY 9, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 10, 1989	PRINTING REPORT.
FEBRUARY 11, 1989	SECOND READING, DO PASS.
FEBRUARY 13, 1989	ENGROSSING REPORT.
FEBRUARY 14, 1989	THIRD READING, PASSED. AYES, 97; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 15, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
MARCH 3, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 4, 1989	SECOND READING, CONCURRED IN.
MARCH 7, 1989	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.
	RETURNED TO HOUSE.

MARCH 8, 1989

IN THE HOUSE

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *533*  
 2 INTRODUCED BY *Lewis D. Nelson, House, 1st District*  
 3 BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION *Donna*  
 4 *Richard E. Manning, House, 1st District*  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING THE PUBLIC  
 6 EMPLOYEES' RETIREMENT BOARD TO CONVERT CERTAIN DISABILITY  
 7 RETIREMENTS TO SERVICE RETIREMENTS; AMENDING SECTIONS  
 8 19-3-1102, 19-6-612, AND 19-8-712, MCA; AND PROVIDING AN  
 9 IMMEDIATE EFFECTIVE DATE."

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

12 **Section 1.** Section 19-3-1102, MCA, is amended to read:

13 "19-3-1102. Medical examination of disability retiree  
 14 -- cancellation and reinstatement. (1) The board may, at in  
 15 its pleasure discretion, require the recipient of a  
 16 disability retirement allowance because--of-disability to  
 17 undergo a medical examination. The examination shall must be  
 18 made by a physician or surgeon appointed by the board, at  
 19 the place of residence of the recipient or another place  
 20 mutually agreed upon. Upon the basis of the examination, the  
 21 board shall determine whether the recipient is unable, by  
 22 reason of physical or mental incapacity, to perform either  
 23 the duties of the position held by him when he was retired  
 24 or the duties proposed to be assigned to him. If the board  
 25 determines that the recipient is not incapacitated or if the

1 recipient refuses to submit to medical examination, his  
 2 retirement allowance shall must be canceled.

3 (2) If the board determines that a recipient of a  
 4 disability retirement allowance should no longer be subject  
 5 to medical review, the board may grant a service retirement  
 6 status to the recipient without recalculating his monthly  
 7 allowance. The board shall notify the recipient in writing  
 8 as to the change in status. If the recipient disagrees with  
 9 the board's determination, he may request the board to  
 10 reconsider its action. The request for reconsideration must  
 11 be made in writing within 60 days after receipt of the  
 12 notice of the status change.

13 {2}(3) A person recipient whose disability retirement  
 14 allowance is canceled shall because the board has determined  
 15 that he is no longer incapacitated must be reinstated to the  
 16 position held by him immediately before his retirement or to  
 17 a position in the same classification with duties within his  
 18 capacity if he had been an employee of the state or of the  
 19 university. If he had been an employee of a contracting  
 20 employer, the board shall notify the proper official of the  
 21 contracting employer that the retirement allowance has been  
 22 canceled and that the former employee is eligible for  
 23 reinstatement to duty. The fact that he was retired for  
 24 disability may not prejudice any right to reinstatement to  
 25 duty which that he may have or claim to have.

1        ~~{3}{4}~~ If a person recipient whose disability  
 2 retirement allowance is canceled is not reemployed in a  
 3 position subject to the retirement system, his service is  
 4 considered, for the purposes of 19-3-703, to have been  
 5 discontinued coincident with the commencement of his  
 6 retirement allowance."

7        **Section 2.** Section 19-6-612, MCA, is amended to read:

8        "19-6-612. Medical examination of disability retiree  
 9 -- cancellation of allowance. (1) The board, in its  
 10 discretion, may require the recipient of a disability  
 11 retirement allowance to undergo a medical examination. The  
 12 examination must be made by a physician or surgeon at the  
 13 recipient's place of residence or at another place mutually  
 14 agreed on, at the board's expense. Upon the basis of the  
 15 examination, the board shall determine, by reason of  
 16 physical or mental capacity, whether the recipient can  
 17 perform the duties of the position held by him when he was  
 18 retired. If the board determines that the recipient is not  
 19 incapacitated, his disability retirement allowance must be  
 20 canceled when he is offered a position under subsection ~~{2}~~  
 21 (3). If the recipient refuses to submit to a medical  
 22 examination, his retirement allowance must be canceled when  
 23 he is notified of the determination of the board.

24        {2} If the board determines that a recipient of a  
 25 disability retirement allowance should no longer be subject

1 to medical review, the board may grant a service retirement  
 2 status to the recipient without recalculating his monthly  
 3 allowance. The board shall notify the recipient in writing  
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 10 is canceled because the board has determined that he is no  
 11 longer incapacitated ~~shall~~ must be reinstated to the  
 12 position held by him immediately before his retirement or to  
 13 a position in the same classification within his capacity,  
 14 whichever is first open. The fact that he was retired for  
 15 disability may not prejudice any right to reinstatement to  
 16 duty which that he may have or claim to have.

17        ~~{3}{4}~~ The department of justice may request a medical  
 18 or psychological review as to the ability of the ~~member~~  
 19 recipient to return to work as a member of the highway  
 20 patrol. If the board's findings are upheld, the department  
 21 shall pay the cost of the review."

22        **Section 3.** Section 19-8-712, MCA, is amended to read:

23        "19-8-712. Medical examination of disability retiree  
 24 -- cancellation of allowance. (1) The board, in its  
 25 discretion, may require the recipient of a disability

1 retirement allowance to undergo a medical examination. The  
 2 examination must be made by a physician or surgeon at the  
 3 recipient's place of residence or at another place mutually  
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 11 (3). If the recipient refuses to submit to a medical  
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 25 is canceled because the board has determined that he is no

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 2 position held by him immediately before his retirement or to  
 3 a position in the same classification within his capacity,  
 4 whichever is first open. The fact that he was retired for  
 5 disability may not prejudice any right to reinstatement to  
 6 duty which that he may have or claim to have.

7 ~~(3)(4)~~ The department of fish, wildlife, and parks may  
 8 request a medical or psychological review as to the ability  
 9 of the member recipient to return to work as a game warden.  
 10 If the board's findings are upheld, the department of fish,  
 11 wildlife, and parks shall pay the cost of the review."

12 NEW SECTION. Section 4. Extension of authority. Any  
 13 existing authority to make rules on the subject of the  
 14 provisions of [this act] is extended to the provisions of  
 15 [this act].

16 NEW SECTION. Section 5. Effective date. [This act] is  
 17 effective on passage and approval.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB533, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act permitting the public employees retirement board to convert certain disability retirements to service retirements; amending Sections 19-3-1102, 19-6-612, and 19-8-712, MCA; and providing an immediate effective date.

ASSUMPTIONS:

1. Plan year 1988 costs as secondary payer of claims for 33 medicare - eligible, disability retirees was obtained from Blue Cross/Blue Shield. Costs were \$30,800.
2. Total costs were converted to monthly per capita costs for these 33 individuals - \$77.78.
3. The average plan year 1988, per capita costs for all other Medicare - prime retirees except the 33 was calculated - \$52.66.
4. The percentage difference between monthly per capita costs as secondary payer for disability retirees and secondary payer for other retirees (retirees over age 65) was calculated at 48%. This was assumed to represent higher use of medical services.
5. The plan year 1988 monthly per capita claim costs of retirees for whom the state must pay primary was calculated at \$132.24.
6. This figure was increased by 48% to project the extra monthly claims costs per capita as primary payer of claims for a disability retiree - \$195.72.
7. The monthly per capita costs for a disability retiree as secondary payer was subtracted from the projected monthly per capita costs as primary payer - \$56,650.
8. This monthly per capita increase was converted to an annual increase applied to the 33 disability retirees - \$56,650.
9. The \$56,650 cost increase for plan year 1988 was increased by 30% for FY90 and 45% for FY91 assuming a 15% increase in claims costs per year.

FISCAL IMPACT:

	Current	FY90		Current	FY91	
	Law	Proposed	Difference	Law	Proposed	Difference
<u>Revenues:</u>						
Premiums	\$28,350	\$ 43,992	\$ 15,642	\$28,350	\$ 43,992	\$ 15,642
<u>Expenditures:</u>						
Operating Expenses	\$30,800	\$104,445	\$ 73,645	\$30,800	\$112,929	\$ 82,129
<u>Net Effect:</u>	(\$ 2,450)	(\$ 60,453)	(\$ 58,003)	(\$ 2,450)	(\$68,937)	(\$ 66,487)

  
 RAY SHACKLEFORD, BUDGET DIRECTOR  
 OFFICE OF BUDGET AND PROGRAM PLANNING

2/9/89  
 DATE

  
 ERVIN DAVIS, PRIMARY SPONSOR

2/10/89  
 DATE

Fiscal Note for HB533, as introduced

**HB 533**

APPROVED BY COMMITTEE  
ON STATE ADMINISTRATION

1 *House* BILL NO. *533*  
2 INTRODUCED BY *Eric D. ...*  
3 BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION *...*  
4 *...*  
5 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING THE PUBLIC  
6 EMPLOYEES' RETIREMENT BOARD TO CONVERT CERTAIN DISABILITY  
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8 19-3-1102, 19-6-612, AND 19-8-712, MCA; AND PROVIDING AN  
9 IMMEDIATE EFFECTIVE DATE."

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19 the place of residence of the recipient or another place  
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21 board shall determine whether the recipient is unable, by  
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23 the duties of the position held by him when he ~~was~~ retired  
24 or the duties proposed to be assigned to him. If the board  
25 determines that the recipient is not incapacitated or if the

1 recipient refuses to submit to medical examination, his  
2 retirement allowance ~~shall~~ must be canceled.

3 (2) If the board determines that a recipient of a  
4 disability retirement allowance should no longer be subject  
5 to medical review, the board may grant a service retirement  
6 status to the recipient without recalculating his monthly  
7 allowance. The board shall notify the recipient in writing  
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9 the board's determination, he may request the board to  
10 reconsider its action. The request for reconsideration must  
11 be made in writing within 60 days after receipt of the  
12 notice of the status change.

13 (2)(3) A person recipient whose disability retirement  
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1        ~~†3†~~(4) If a person recipient whose disability  
 2        retirement allowance is canceled is not reemployed in a  
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 4        considered, for the purposes of 19-3-703, to have been  
 5        discontinued coincident with the commencement of his  
 6        retirement allowance."

7        **Section 2.** Section 19-6-612, MCA, is amended to read:

8        "19-6-612. Medical examination of disability retiree  
 9        -- cancellation of allowance. (1) The board, in its  
 10       discretion, may require the recipient of a disability  
 11       retirement allowance to undergo a medical examination. The  
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 21       (3). If the recipient refuses to submit to a medical  
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1       to medical review, the board may grant a service retirement  
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 15       disability may not prejudice any right to reinstatement to  
 16       duty ~~which that~~ he may have or claim to have.

17       ~~†3†~~(4) The department of justice may request a medical  
 18       or psychological review as to the ability of the member  
 19       recipient to return to work as a member of the highway  
 20       patrol. If the board's findings are upheld, the department  
 21       shall pay the cost of the review."

22       **Section 3.** Section 19-8-712, MCA, is amended to read:

23       "19-8-712. Medical examination of disability retiree  
 24       -- cancellation of allowance. (1) The board, in its  
 25       discretion, may require the recipient of a disability



1 retirement allowance to undergo a medical examination. The  
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 11 (3). If the recipient refuses to submit to a medical  
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7 †3†(4) The department of fish, wildlife, and parks may  
 8 request a medical or psychological review as to the ability  
 9 of the member recipient to return to work as a game warden.  
 10 If the board's findings are upheld, the department of fish,  
 11 wildlife, and parks shall pay the cost of the review."

12 NEW SECTION. Section 4. Extension of authority. Any  
 13 existing authority to make rules on the subject of the  
 14 provisions of [this act] is extended to the provisions of  
 15 [this act].

16 NEW SECTION. Section 5. Effective date. [This act] is  
 17 effective on passage and approval.

-End-

1 *House* BILL NO. *533*  
 2 INTRODUCED BY *David Allen Hensley*  
 3 BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION *John Richard Manning*  
 4 *William E. Smith*  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING THE PUBLIC  
 6 EMPLOYEES' RETIREMENT BOARD TO CONVERT CERTAIN DISABILITY  
 7 RETIREMENTS TO SERVICE RETIREMENTS; AMENDING SECTIONS  
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(2) If the board determines that a recipient of a disability retirement allowance should no longer be subject to medical review, the board may grant a service retirement status to the recipient without recalculating his monthly allowance. The board shall notify the recipient in writing as to the change in status. If the recipient disagrees with the board's determination, he may request the board to reconsider its action. The request for reconsideration must be made in writing within 60 days after receipt of the notice of the status change.

(2)(3) A person recipient whose retirement allowance is canceled because the board has determined that he is no

longer incapacitated shall must be reinstated to the position held by him immediately before his retirement or to a position in the same classification within his capacity, whichever is first open. The fact that he was retired for disability may not prejudice any right to reinstatement to duty which that he may have or claim to have.

(3)(4) The department of fish, wildlife, and parks may request a medical or psychological review as to the ability of the member recipient 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."

NEW SECTION. **Section 4.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 5.** Effective date. [This act] is effective on passage and approval.

-End-

## HOUSE BILL NO. 533

INTRODUCED BY DAVIS, WALKER, STIMATZ, MCCORMICK,  
REGAN, QUILICI, JENKINS, MANNING, WALLIN, DRISCOLL,  
HARRINGTON, STORY, PETERSON, COMPTON, O'CONNELL,  
GRADY, MAZUREK, HARPER, VINCENT  
BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING THE PUBLIC  
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its pleasure discretion, require the recipient of a  
disability retirement allowance because--of-disability to  
undergo a medical examination. The examination shall must be  
made by a physician or surgeon appointed by the board, at  
the place of residence of the recipient or another place  
mutually agreed upon. Upon the basis of the examination, the  
board shall determine whether the recipient is unable, by  
reason of physical or mental incapacity, to perform either

the duties of the position held by him when he ~~was~~ retired  
or the duties proposed to be assigned to him. If the board  
determines that the recipient is not incapacitated or if the  
recipient refuses to submit to medical examination, his  
retirement allowance ~~shall~~ must be canceled.

(2) If the board determines that a recipient of a  
disability retirement allowance should no longer be subject  
to medical review, the board may grant a service retirement  
status to the recipient without recalculating his monthly  
allowance. The board shall notify the recipient in writing  
as to the change in status. If the recipient disagrees with  
the board's determination, he may request the board to  
reconsider its action. The request for reconsideration must  
be made in writing within 60 days after receipt of the  
notice of the status change.

(3) A person recipient whose disability retirement  
allowance is canceled ~~shall~~ because the board has determined  
that he is no longer incapacitated must be reinstated to the  
position held by him immediately before his retirement or to  
a position in the same classification with duties within his  
capacity if he had been an employee of the state or of the  
university. If he had been an employee of a contracting  
employer, the board shall notify the proper official of the  
contracting employer that the retirement allowance has been  
canceled and that the former employee is eligible for

1 reinstatement to duty. The fact that he was retired for  
2 disability may not prejudice any right to reinstatement to  
3 duty which that he may have or claim to have.

4 {3}{4} If a person recipient whose disability  
5 retirement allowance is canceled is not reemployed in a  
6 position subject to the retirement system, his service is  
7 considered, for the purposes of 19-3-703, to have been  
8 discontinued coincident with the commencement of his  
9 retirement allowance."

10 **Section 2.** Section 19-6-612, MCA, is amended to read:

11 "19-6-612. Medical examination of disability retiree  
12 -- cancellation of allowance. (1) The board, in its  
13 discretion, may require the recipient of a disability  
14 retirement allowance to undergo a medical examination. The  
15 examination must be made by a physician or surgeon at the  
16 recipient's place of residence or at another place mutually  
17 agreed on, at the board's expense. Upon the basis of the  
18 examination, the board shall determine, by reason of  
19 physical or mental capacity, whether the recipient can  
20 perform the duties of the position held by him when he was  
21 retired. If the board determines that the recipient is not  
22 incapacitated, his disability retirement allowance must be  
23 canceled when he is offered a position under subsection {2}  
24 {3}. If the recipient refuses to submit to a medical  
25 examination, his retirement allowance must be canceled when

1 he is notified of the determination of the board.

2 (2) If the board determines that a recipient of a  
3 disability retirement allowance should no longer be subject  
4 to medical review, the board may grant a service retirement  
5 status to the recipient without recalculating his monthly  
6 allowance. The board shall notify the recipient in writing  
7 as to the change in status. If the recipient disagrees with  
8 the board's determination, he may request the board to  
9 reconsider its action. The request for reconsideration must  
10 be made in writing within 60 days after receipt of the  
11 notice of the status change.

12 {2}{3} A person recipient whose retirement allowance  
13 is canceled because the board has determined that he is no  
14 longer incapacitated ~~shall~~ must be reinstated to the  
15 position held by him immediately before his retirement or to  
16 a position in the same classification within his capacity,  
17 whichever is first open. The fact that he was retired for  
18 disability may not prejudice any right to reinstatement to  
19 duty which that he may have or claim to have.

20 {3}{4} The department of justice may request a medical  
21 or psychological review as to the ability of the member  
22 recipient to return to work as a member of the highway  
23 patrol. If the board's findings are upheld, the department  
24 shall pay the cost of the review."

25 **Section 3.** Section 19-8-712, MCA, is amended to read:

1 "19-8-712. Medical examination of disability retiree  
 2 -- cancellation of allowance. (1) The board, in its  
 3 discretion, may require the recipient of a disability  
 4 retirement allowance to undergo a medical examination. The  
 5 examination must be made by a physician or surgeon at the  
 6 recipient's place of residence or at another place mutually  
 7 agreed on, at the board's expense. Upon the basis of the  
 8 examination, the board shall determine, by reason of  
 9 physical or mental capacity, whether the recipient can  
 10 perform the duties of the position held by him when he was  
 11 retired. If the board determines that the recipient is not  
 12 incapacitated, his disability retirement allowance must be  
 13 canceled when he is offered a position under subsection {2}  
 14 {3}. If the recipient refuses to submit to a medical  
 15 examination, his retirement allowance must be canceled when  
 16 he is notified of the determination of the board.

17 (2) If the board determines that a recipient of a  
 18 disability retirement allowance should no longer be subject  
 19 to medical review, the board may grant a service retirement  
 20 status to the recipient without recalculating his monthly  
 21 allowance. The board shall notify the recipient in writing  
 22 as to the change in status. If the recipient disagrees with  
 23 the board's determination, he may request the board to  
 24 reconsider its action. The request for reconsideration must  
 25 be made in writing within 60 days after receipt of the

1 notice of the status change.

2 {2}{3} A person recipient whose retirement allowance  
 3 is canceled because the board has determined that he is no  
 4 longer incapacitated shall must be reinstated to the  
 5 position held by him immediately before his retirement or to  
 6 a position in the same classification within his capacity,  
 7 whichever is first open. The fact that he was retired for  
 8 disability may not prejudice any right to reinstatement to  
 9 duty which that he may have or claim to have.

10 {3}{4} The department of fish, wildlife, and parks may  
 11 request a medical or psychological review as to the ability  
 12 of the member recipient to return to work as a game warden.  
 13 If the board's findings are upheld, the department of fish,  
 14 wildlife, and parks shall pay the cost of the review."

15 NEW SECTION. Section 4. Extension of authority. Any  
 16 existing authority to make rules on the subject of the  
 17 provisions of [this act] is extended to the provisions of  
 18 [this act].

19 NEW SECTION. Section 5. Effective date. [This act] is  
 20 effective on passage and approval.

-End-