

HOUSE BILL NO. 896

INTRODUCED BY PETERSON, SPRING, PECK,
SIMPKINS, TVEIT, ZOOK, WANZENRIED, FELAND
BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE HOUSE

FEBRUARY 16, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

 FIRST READING.

FEBRUARY 23, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 25, 1991 PRINTING REPORT.

FEBRUARY 26, 1991 SECOND READING, DO PASS.

 ENGROSSING REPORT.

FEBRUARY 27, 1991 THIRD READING, PASSED.
AYES, 96; NOES, 4.

 TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 4, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON STATE ADMINISTRATION.

 FIRST READING.

APRIL 10, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

APRIL 16, 1991 SECOND READING, CONCURRED IN.

APRIL 17, 1991 THIRD READING, CONCURRED IN.
AYES, 49; NOES, 0.

 RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 18, 1991 RECEIVED FROM SENATE.

 SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 19, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 896
 2 INTRODUCED BY Peterson
 3 Book BY REQUEST OF THE DEPARTMENT OF JUSTICE
 4 Complex Street Book UNRECORDED Jan
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE
 6 CERTAIN STATUTES PERTAINING TO THE POWERS AND DUTIES OF THE
 7 STATE FIRE MARSHAL; CHANGING CERTAIN STATUTORY REFERENCES TO
 8 THE STATE FIRE MARSHAL TO THE DEPARTMENT OF JUSTICE;
 9 AMENDING SECTIONS 2-15-1519, 2-15-2005, 2-15-2108, 50-3-101,
 10 50-3-102, 50-3-103, 50-3-106, 50-39-101, 50-39-102,
 11 50-39-103, 50-39-104, 50-39-105, 50-39-202, 50-61-101,
 12 50-61-102, 50-61-106, 50-61-114, 50-61-115, 50-61-117,
 13 50-61-118, 50-61-121, 50-62-101, 50-62-102, 50-62-103,
 14 50-62-104, 50-62-105, 50-62-106, 50-62-107, 50-62-110,
 15 50-62-111, 50-63-101, 50-63-201, 50-63-203, 50-78-301,
 16 52-2-733, AND 52-2-734, MCA; REPEALING SECTIONS 50-3-104,
 17 50-3-105, 50-3-107, 50-3-108, 50-61-104, 50-61-105,
 18 50-61-107, 50-61-108, 50-61-109, 50-61-110, 50-61-111,
 19 50-62-108, 50-62-109, 50-63-301, 50-63-302, 50-63-303,
 20 50-63-304, 50-63-305, 50-63-306, 50-63-307, AND 50-63-308,
 21 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
 22
 23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 24 NEW SECTION. Section 1. Name of fire marshal changed
 25 -- instructions to code commissioner. (1) The name of the

1 state fire marshal is changed to the state fire prevention
 2 and investigation program of the department of justice.
 3 (2) Unless inconsistent with [sections 1 through 37],
 4 wherever the term "state fire marshal" or "fire marshal"
 5 appears in the Montana Code Annotated, the code commissioner
 6 shall change the term to the "state fire prevention and
 7 investigation program of the department of justice", "fire
 8 prevention and investigation program" (of the department of
 9 justice), or "program", as appropriate. The code
 10 commissioner shall also conform internal references and
 11 grammar to these changes.
 12 **Section 2.** Section 2-15-1519, MCA, is amended to read:
 13 **"2-15-1519. Fire services training advisory council.**
 14 (1) The board of regents shall appoint a fire services
 15 training advisory council to work with the director of the
 16 fire services training school. The membership of the council
 17 shall include the following:
 18 (a) a fire chief;
 19 (b) a volunteer firefighter;
 20 (c) a paid firefighter;
 21 (d) a fire service instructor;
 22 (e) a person involved in fire prevention;
 23 (f) a representative of the insurance industry; and
 24 (g) a professional educator.
 25 (2) The board shall solicit and consider the



1 recommendations of appropriate organizations and
2 associations of fire service personnel in making
3 appointments under subsection (1) of this section.

4 (3) Members appointed shall serve for a 4-year term and
5 may be removed for cause. If a vacancy occurs, a member
6 shall be appointed to fill the unexpired term. A member may
7 be reappointed.

8 (4) ~~The state fire marshal~~ A representative of the
9 state fire prevention and investigation program of the
10 department of justice, a fire control officer designated by
11 the commissioner of state lands, and the director of the
12 fire services training school are ex officio members of the
13 council."

14 **Section 3.** Section 2-15-2005, MCA, is amended to read:

15 **"2-15-2005. State fire marshal prevention and**
16 **investigation program -- advisory council.** (1) There is a
17 state fire ~~marshal~~ prevention and investigation program in
18 the department of justice ~~who is and~~ under the supervision
19 and control of the attorney general.

20 (2) A person appointed to administer the fire
21 prevention and investigation program shall represent the
22 state of Montana as the state fire marshal and must be a
23 person qualified by experience, training, and high
24 professional competence in matters of fire service and
25 safety. state fire marshal shall have:

1 ~~(a) at least 10 years of progressively responsible~~
2 ~~experience in fire protection;~~

3 ~~(b) a 2-year associate degree in fire protection~~
4 ~~engineering from a recognized institution of higher~~
5 ~~education and 2 years' experience in fire protection; or~~

6 ~~(c) a degree from a recognized institution of higher~~
7 ~~education in fire protection engineering or fire protection~~
8 ~~technology;~~

9 (3) The attorney general shall create a fire ~~marshal~~
10 prevention and investigation advisory council in accordance
11 with procedures provided in 2-15-122."

12 **Section 4.** Section 2-15-2108, MCA, is amended to read:

13 **"2-15-2108. Petroleum tank release compensation board.**

14 (1) There is a petroleum tank release compensation board.

15 (2) The board consists of seven members appointed by
16 the governor as follows:

17 (a) the director of the department of health and
18 environmental sciences or his representative;

19 (b) ~~the state fire marshal or his representative a~~
20 representative of the state fire prevention and
21 investigation program of the department of justice;

22 (c) a representative of the petroleum services
23 industry;

24 (d) a representative of independent petroleum marketers
25 and chain retailers;

- 1 (e) a representative of the general public;
 2 (f) a representative of service station dealers; and
 3 (g) a representative of the insurance industry.

4 (3) The board shall elect a chairman.

5 (4) The term of membership is 3 years.

6 (5) Members shall serve without pay, but are entitled
 7 to reimbursement for travel, meals, and lodging while
 8 engaged in board business, as provided in 2-18-501 through
 9 2-18-503."

10 **Section 5.** Section 50-3-101, MCA, is amended to read:

11 "50-3-101. ~~Fire-marshat-defined~~ Definitions. In this
 12 chapter, "department" means the department of justice and
 13 "fire marshat prevention and investigation program" or
 14 "state-fire-marshat" means the state fire marshat prevention
 15 and investigation program of the department of justice
 16 provided for in 2-15-2005."

17 **Section 6.** Section 50-3-102, MCA, is amended to read:

18 "50-3-102. Powers and duties of department regarding
 19 state fire marshat prevention and investigation. (1) For the
 20 purpose of reducing the state's fire loss, the ~~state--fire~~
 21 marshat department shall:

22 (a) make at least one inspection a year of each state
 23 institution and submit a copy of the report to the
 24 department of institutions with recommendations in regard to
 25 fire prevention, fire protection, and public safety;

1 (b) make at least one inspection a year of each unit of
 2 the Montana university system and submit a copy of the
 3 report to the commissioner of higher education with
 4 recommendations in regard to fire prevention, fire
 5 protection, and public safety;

6 (c) inspect other state-owned buildings and submit a
 7 report to the department of administration with
 8 recommendations in regard to fire prevention, fire
 9 protection, and public safety;

10 ~~(d)~~ (d) inspect public, business, or industrial
 11 buildings, as provided in chapter 61, and require
 12 conformance to law and rules promulgated under the
 13 provisions of this chapter;

14 ~~(e)~~ (e) assist local fire and law enforcement
 15 authorities in arson investigations and may initiate or
 16 supervise such these investigations when, in his its
 17 judgment, the initiation or supervision is necessary;

18 ~~(e)--review--all--training--programs--on--investigation--of~~
 19 ~~accidental--and--incendiary--fires;~~

20 (f) provide fire prevention and fire protection
 21 information to public officials and the general public;

22 ~~(g)--encourage--and--assist--local--fire--authorities--in--fire~~
 23 ~~prevention--programs--and--adopt--standards--and--implement--a~~
 24 ~~program--to--encourage--fire--departments--to--meet--such~~
 25 ~~standards;~~

1 ~~(h)~~(g) be serve as the state entity primarily
 2 responsible for promoting fire safety at the state level and
 3 ~~to represent the state in structural fire matters;~~
 4 ~~(i)~~(h) encourage coordination of all services and
 5 agencies in ~~structural~~ fire prevention matters to reduce
 6 duplication and fill voids in services;
 7 ~~(j)~~(i) establish rules concerning responsibilities and
 8 procedures to be followed when there is a threat of
 9 explosive material in a building housing state offices; and
 10 ~~(k)~~(j) keep ~~in his office~~ a record of all fires
 11 occurring in the state, the origin of the fires, and all
 12 facts, statistics, and circumstances relating ~~thereto which~~
 13 to the fires that have been determined by investigations
 14 under the provisions of chapter 63, ~~of this title, and~~
 15 ~~except~~ Except for statements of witnesses given during an
 16 investigation, and information that may be held in
 17 confidence under 50-63-403, and criminal justice information
 18 subject to restrictions on dissemination in accordance with
 19 Title 44, chapter 5, the record ~~shall~~ must be open at all
 20 times to public inspection; and
 21 ~~(l)~~ ~~make an annual report to the attorney general~~
 22 ~~containing a detailed statement of his official action and~~
 23 ~~the transactions of his department, and the attorney general~~
 24 ~~shall, in turn, submit the report to the governor with such~~
 25 ~~recommendations and comments thereon as he considers~~

1 necessary.

2 (2) The ~~state fire marshal~~ department may adopt rules
 3 necessary for safeguarding life and property from the
 4 hazards of fire and carrying into effect the fire prevention
 5 laws of this state.

6 (3) The ~~state fire marshal~~ department shall adopt rules
 7 based on nationally recognized standards necessary for
 8 safeguarding life and property from the hazards associated
 9 with the manufacture, transportation, storage, sale, and use
 10 of explosive materials.

11 (4) If necessary to safeguard life and property under
 12 rules promulgated pursuant to this section, the ~~state fire~~
 13 ~~marshal~~ department may maintain an action to enjoin the use
 14 of all or a portion of a building or restrain a specific
 15 activity until there is compliance with the rules."

16 **Section 7.** Section 50-3-103, MCA, is amended to read:

17 "50-3-103. Rules promulgated by ~~state fire marshal~~
 18 ~~department.~~ (1) Rules promulgated by the ~~state fire marshal~~
 19 ~~department~~ by authority of 50-3-102 ~~shall~~ must be reasonable
 20 and calculated to effect the purposes of this chapter. They
 21 ~~shall~~ must include but are not be limited to requirements
 22 for design, construction, installation, operation, storage,
 23 handling, maintenance, or use of structural requirements for
 24 various types of construction; building restrictions within
 25 congested districts; exit facilities from structures; fire

1 extinguishers, fire alarm systems, and fire extinguishing
 2 systems; fire emergency drills; flue and chimney
 3 construction; heating devices; electrical wiring and
 4 equipment; air conditioning, ventilating, and other duct
 5 systems; refrigeration systems; flammable liquids; oil and
 6 gas wells; application of flammable finishes; explosives,
 7 acetylene, liquefied petroleum gas, and similar products;
 8 calcium carbide and acetylene generators; flammable motion
 9 picture film; combustible fibers; hazardous chemicals or
 10 materials; rubbish; open-flame open-flame devices; parking
 11 of vehicles; dust explosions; lightning protection; storage
 12 of smokeless powder and small arms primers; and other
 13 special fire hazards.

14 (2) If rules relate to building and equipment standards
 15 covered by the state or a municipal building code, the rules
 16 are effective upon approval of the department of commerce
 17 and filing with the secretary of state.

18 (3) ~~Standards of the national fire protection~~
 19 ~~association, United States bureau of standards, and American~~
 20 ~~insurance association~~ Federal or other nationally recognized
 21 standards for fire protection may be adopted in whole or in
 22 part by reference.

23 (4) Rules ~~shall~~ must be adopted as prescribed in the
 24 Montana Administrative Procedure Act.

25 (5) Any A person violating any rule made under the

1 provisions of this part ~~shall be~~ is guilty of a
 2 misdemeanor."

3 **Section 8.** Section 50-3-106, MCA, is amended to read:

4 "50-3-106. Appointment of special deputy--state fire
 5 marshals fire inspectors. (1) ~~The state fire marshal may~~
 6 ~~appoint special deputy state fire marshals throughout the~~
 7 ~~state and define their duties.~~ Special fire inspectors may
 8 be appointed to perform any function of the fire prevention
 9 and investigation program.

10 (2) When performing these duties or attending a
 11 training course ~~conducted by the state fire marshal~~ approved
 12 by the department, special deputy--fire--marshals fire
 13 inspectors may be paid at a rate not to exceed \$56 a day
 14 plus travel expenses as provided for in 2-18-501 through
 15 2-18-503, as amended."

16 **Section 9.** Section 50-39-101, MCA, is amended to read:

17 "50-39-101. Certificate of registration, permit, and
 18 license required. A natural person must shall obtain a
 19 certificate of registration from the ~~state fire marshal~~
 20 department of justice prior to servicing or installing of
 21 fire extinguishers, fire alarm systems, or fire
 22 extinguishing systems. A person or firm must shall obtain
 23 from the ~~fire marshal~~ department a permit to sell or a
 24 license to install fire extinguishers, fire alarm systems,
 25 or fire extinguishing systems prior to engaging in such the

1 business."

2 **Section 10.** Section 50-39-102, MCA, is amended to read:

3 "50-39-102. **Application for certificate, permit, and**
4 **license.** (1) Applications for licenses, permits, or
5 certificates ~~shall~~ must be made on a form prescribed by the
6 ~~state-fire-marshai~~ department of justice.

7 (2) The ~~fire-marshai~~ department shall issue a license
8 to an applicant who submits satisfactory proof that he is
9 properly equipped and staffed to provide the services to be
10 licensed and who pays the required fee.

11 (3) The ~~fire---marshai~~ department shall issue a
12 certificate of registration to an applicant who scores a
13 passing grade on an examination devised by the ~~fire-marshai~~
14 department and who pays the required fee.

15 (4) The ~~fire-marshai~~ department shall issue a sales
16 permit to an applicant who submits the information required
17 by the ~~fire-marshai~~ department on the application form, who
18 submits satisfactory proof that he deals only in equipment
19 that meets the standards and regulations of the ~~state--fire~~
20 marshai department, and who pays the required fee."

21 **Section 11.** Section 50-39-103, MCA, is amended to read:

22 "50-39-103. **Inspections and examinations authorized.**
23 The ~~state--fire--marshai~~ department of justice may conduct
24 inspections, examinations, or hearings prior to the issuance
25 of licenses, permits, or certificates."

1 **Section 12.** Section 50-39-104, MCA, is amended to read:

2 "50-39-104. **Revocations and suspensions authorized.** The
3 ~~state--fire--marshai~~ department of justice may revoke,
4 suspend, or refuse to issue a license, permit, or
5 certificate for violation of the provisions of this part or
6 any rules promulgated by the ~~fire-marshai~~ department under
7 applicable law."

8 **Section 13.** Section 50-39-105, MCA, is amended to read:

9 "50-39-105. **Fees.** (1) The ~~state--fire--marshai--or--his~~
10 representative department of justice shall charge a fee--not
11 to-exceed-a-total-of-\$257, for the inspection and issuance of
12 licenses, permits, and certificates. The fee may not exceed
13 \$50 for each license, permit, or certificate issued.

14 (2) All fees collected under this section ~~shall~~ must be
15 paid into the ~~general-fund~~ fire prevention and investigation
16 account in the state special revenue fund."

17 **Section 14.** Section 50-39-202, MCA, is amended to read:

18 "50-39-202. **Fire marshai prevention and investigation**
19 **program** to direct standardization. The standardization of
20 existing fire protection equipment in this state shall be
21 arranged for and carried out by or under the direction of
22 the state fire marshai---of---Montana prevention and
23 investigation program of the department of justice. The
24 ~~state-fire-marshai~~ program is authorized to proceed to make
25 such changes as may be necessary to standardize all existing

1 fire protection equipment in this state ~~immediately after~~
 2 ~~March 17, 1929~~. ~~He~~ The program shall provide such appliances
 3 as are necessary for carrying on this work and shall proceed
 4 with ~~such~~ standardization as rapidly as possible and
 5 complete ~~such~~ the work at the earliest date circumstances
 6 will permit."

7 **Section 15.** Section 50-61-101, MCA, is amended to read:

8 "50-61-101. Purpose of chapter. The purpose and intent
 9 of this chapter ~~is~~ are to provide for the public safety in
 10 case of fire in those occupancies specified in 50-61-103; ~~to~~
 11 ~~provide for--fire--escapes;--fire-fighting--apparatus;--fire~~
 12 ~~alarms;~~ and to provide for inspection of ~~such~~ the buildings
 13 and premises by specified officers."

14 **Section 16.** Section 50-61-102, MCA, is amended to read:

15 "50-61-102. ~~Fire--marshal~~ Department of justice to
 16 ~~administer~~ chapter. (1) ~~The state-fire-marshal~~ department of
 17 justice has general charge and supervision of the
 18 enforcement of this chapter, and the officers enumerated in
 19 50-61-114 shall act under ~~his~~ its general charge and
 20 supervision, shall assist ~~him~~ the department in giving
 21 effect to this chapter, and are subject to ~~his~~ its direction
 22 and the rules adopted under 50-3-102 and 50-3-103 for the
 23 enforcement of 50-61-120 and 50-61-121 and this chapter.

24 (2) Upon its approval of a fire code and a plan for
 25 enforcement of the code filed by a municipality or district,

1 the department may certify a municipal or district fire
 2 inspection program for local enforcement."

3 **Section 17.** Section 50-61-106, MCA, is amended to read:

4 "50-61-106. Unlawful to obstruct fire escape exit. It
 5 ~~shall be is~~ unlawful to obstruct in any manner ~~whatsoever~~
 6 any fire escape exit, or any hallway, corridor, or
 7 entranceway leading to a fire exit, required by the
 8 ~~provisions---of---this---chapter---or---hallway,---corridor,---or~~
 9 ~~entranceway-leading-thereto~~ rules adopted by the department
 10 of justice."

11 **Section 18.** Section 50-61-114, MCA, is amended to read:

12 "50-61-114. Fire chief and ~~county---sheriff~~ fire
 13 inspector to make inspections. The chief of the fire
 14 department of each municipality or district ~~where~~ when a
 15 fire department inspection program is established ~~and the~~
 16 ~~county-sheriff-or-deputy-fire-marshals~~ or a fire inspector
 17 of the department of justice ~~where~~ when no fire department
 18 inspection program exists ~~shall~~, for the purpose of
 19 examining the premises for violations of this chapter and
 20 rules adopted under 50-3-103 for the enforcement of this
 21 chapter:

22 (1) shall enter into school buildings at least once
 23 each 12 months; and

24 (2) may enter into all other buildings and upon all
 25 other premises within ~~their~~ his jurisdiction, according to

1 priority schedules established by the department for
 2 conducting inspections of buildings and premises at least
 3 once each 18 months."

4 **Section 19.** Section 50-61-115, MCA, is amended to read:

5 "50-61-115. Notice of violations. (1) When a building
 6 is found ~~which requires the erection of fire escapes and~~
 7 ~~upon which fire escapes have not been erected according to~~
 8 ~~the provisions of this chapter or if fire hoses, fire~~
 9 ~~extinguishers, fire alarms, or other fire apparatus is found~~
 10 ~~to be lacking or defective or not in good working condition,~~
 11 that is not in compliance with fire safety rules promulgated
 12 by the department of justice, the person making the
 13 inspection or the ~~state fire marshal~~ department shall serve
 14 a written notice upon the party whose duty it is to ~~erect~~
 15 ~~the fire escapes or maintain such fire apparatus~~ maintain
 16 the safety of the building.

17 (2) The notice ~~shall~~ must specify the time within which
 18 ~~the fire escapes shall be erected or~~ the defective
 19 conditions must be remedied, which may not be more than 90
 20 days.

21 (3) The notice is served if delivered to the person to
 22 be notified, if left with any adult person at the usual
 23 residence or place of business of the person to be notified,
 24 or if deposited in the post office directed to the ~~last~~
 25 known last-known address of the person to be notified.

1 Whenever buildings are managed and controlled by a board of
 2 trustees, board of commissioners, or other governing body,
 3 the notice is served if delivered to the president,
 4 secretary, or treasurer of the board of trustees, board of
 5 commissioners, or other governing body."

6 **Section 20.** Section 50-61-117, MCA, is amended to read:

7 "50-61-117. ~~Duty of fire marshal to file complaints of~~
 8 ~~violations duty of county attorney to prosecute~~
 9 ~~complaints~~ Prosecution of violations. It ~~shall be~~ is the duty
 10 of the ~~state fire marshal or any person authorized to act in~~
 11 ~~his stead~~ department of justice or other authorized officer
 12 to file complaint for furnish the county attorney with all
 13 evidence of violations of the provisions of this chapter in
 14 any court of competent jurisdiction rules adopted by the
 15 department within the county where said violations occur,
 16 and, if the evidence discloses the fact that a violation has
 17 occurred, it ~~shall be~~ is the duty of the county attorney of
 18 such the county to forthwith prosecute ~~all such complaints~~
 19 ~~so filed~~ the person committing the violation in the same
 20 manner as in other cases."

21 **Section 21.** Section 50-61-118, MCA, is amended to read:

22 "50-61-118. Injunction authorized. In addition to the
 23 other remedies and penalties herein provided in this
 24 chapter, upon the failure of any of the parties charged with
 25 the duty to ~~erect fire escapes or to install and maintain~~

1 ~~fire--alarms--or--fire-extinguishers-or-other-fire-apparatus~~
 2 maintain the safety of the building premises in accordance
 3 with ~~this--chapter~~ rules adopted by the department of
 4 justice, the attorney general of the state or any the county
 5 attorney of the county where the building is located shall
 6 bring an action against the owner, lessee, and occupants of
 7 the building for an injunction enjoining the further
 8 occupancy of it until it is in compliance with this chapter.
 9 The action may be brought in the county where such the
 10 building is located."

11 **Section 22.** Section 50-61-121, MCA, is amended to read:

12 **"50-61-121. Restrictions on storage of smokeless powder**
 13 **and small arms primers.** (1) A retail establishment may stock
 14 up to 400 pounds of smokeless powder on the premises of a
 15 building with a sprinkler system or 200 pounds on the
 16 premises of a building without a sprinkler system if storage
 17 of this stock conforms to the following conditions:

18 (a) no more than 20 pounds are on display in a customer
 19 service area;

20 (b) the storage area is clearly posted as off limits to
 21 customers;

22 (c) the storage area is clearly posted prohibiting
 23 smoking or any open flame or sparks; and

24 (d) the storage area is a room designed and constructed
 25 to restrict smoke travel that is separate from the customer

1 service area, that has a self-closing entrance door, and
 2 that conforms to one of the following:

3 (i) It is constructed of material sufficient to achieve
 4 a 1-hour fire resistant-rated barrier between the storage
 5 area and the customer service area. The smokeless powder
 6 must be stored in cabinets made of wood or equivalent
 7 material that is at least 1 inch thick, and each cabinet
 8 must contain no more than 200 pounds of smokeless powder.
 9 Cabinets must be separated by 25 feet.

10 (ii) It is protected by a fire suppression sprinkler
 11 system approved by the state fire ~~marshal~~ prevention and
 12 investigation program of the department of justice or a fire
 13 marshal of the local jurisdiction, and the storage area has
 14 cabinets as provided for in subsection (1)(d)(i).

15 (iii) Smokeless powder stock is contained in a cabinet
 16 with casters and constructed of wood at least 1 inch thick
 17 that is covered on all sides with 5/8-inch sheetrock.

18 (2) A retail establishment may stock up to 250,000
 19 small arms primers if storage of this stock conforms to the
 20 following conditions:

21 (a) no more than 20,000 primers in a building with a
 22 sprinkler system or 10,000 primers in a building without a
 23 sprinkler system are on display in a customer service area;

24 (b) the storage area must conform to the conditions
 25 imposed in subsections (1)(a) through (1)(d), except that no

1 more than 125,000 small arms primers may be stored in one
2 cabinet, and the minimum required separation between
3 cabinets is 15 feet; and

4 (c) small arms primers are retained in packaging
5 approved by the U.S. department of transportation."

6 **Section 23.** Section 50-62-101, MCA, is amended to read:

7 "50-62-101. Entering of buildings for purpose of
8 examination authorized. The state-fire-marshall, his deputies
9 and--subordinates, officers of the state fire prevention and
10 investigation program of the department of justice or the
11 chief of the fire department of each municipality or
12 district where a fire department is established, or the
13 county sheriff--where--no--fire--department--exists at all
14 reasonable hours may, as authorized by law, enter into all
15 buildings and upon all premises within their his
16 jurisdiction for the purpose of determining whether the
17 building or premise conforms to laws and rules relating to
18 fire hazards and fire safety."

19 **Section 24.** Section 50-62-102, MCA, is amended to read:

20 "50-62-102. Structures or conditions creating fire
21 hazard a public nuisance -- order to remedy. (1) Any If any
22 building or other structure which that for want of proper
23 repair; by reason of age, dilapidated condition, defective
24 or poorly installed wiring and equipment, defective
25 chimneys, defective gas connections, defective heating

1 apparatus, or the existence of any combustibile materials,
2 flammable conditions, or other fire hazards; or for any
3 other cause or reason is especially liable to fire and which
4 is dangerous to the safety of the building premises or to
5 the public or is so situated as to endanger other buildings
6 and property in the vicinity is--hereby--declared, the state
7 fire prevention and investigation program of the department
8 of justice or other officer may declare the building or
9 other structure to be a public nuisance and proceed
10 according to 50-62-103 or subsection (2) of this section.

11 (2) If the state fire prevention and investigation
12 program, an officer of the program, or an officer mentioned
13 in 50-62-101 determines that a building or other structure
14 constitutes a public nuisance for any reason identified in
15 subsection (1), the department or other officer shall order
16 the hazardous condition or material to be removed or
17 remedied. The order must be in writing and directed
18 generally to the owner, lessee, agent, or occupant of the
19 building or structure.

20 (3) If the hazardous condition or material can be
21 removed or remedied within a period of 24 hours, the order
22 must contain notice that the condition or material must be
23 remedied or removed. The owner, lessee, agent, or occupant
24 upon whom the notice is served who fails to comply with the
25 notice is liable for any expenses incurred in the removal or

1 remedying of the hazardous condition or material by the fire
 2 prevention and investigation program or other officer
 3 mentioned in 50-62-101."

4 **Section 25.** Section 50-62-103, MCA, is amended to read:

5 "50-62-103. Service of order to repair hazardous
 6 condition or demolish structure. (1) If the state-fire
 7 marshal, a deputy state-fire marshal, fire prevention and
 8 investigation program of the department of justice or any
 9 officer mentioned in 50-62-101, upon an examination or
 10 inspection, ~~finds~~ determines that a building or other
 11 structure ~~which--for--want-of-proper-repair-or-by-reason-of~~
 12 ~~age-and-dilapidated-condition, defective-or-poorly-installed~~
 13 ~~electric-wiring-or-equipment, defective-chimneys, defective~~
 14 ~~gas--connections--or--defective-heating-apparatus-or-for-any~~
 15 ~~other-cause-or-reason-is-especially-liable-to-fire-and-is-so~~
 16 ~~situated-as-to-endorse-other-buildings-or-property--in--the~~
 17 ~~vicinity, he~~ constitutes a public nuisance for any reason
 18 identified in 50-62-102 and the condition cannot be removed
 19 or remedied within 24 hours, the program or officer shall
 20 order the structure hazardous condition to be repaired, or
 21 the structure to be torn down, or demolished and all
 22 ~~materials-removed-and-all~~ dangerous conditions remedied.

23 (2) The order shall be in writing, shall recite the
 24 grounds therefor, and shall be filed in the office of the
 25 clerk of the district court of the county in which the

1 building or structure ordered to be altered, repaired, or
 2 demolished is situated, and thereupon all further
 3 proceedings for the enforcement thereof shall be had in that
 4 court.

5 (3) A copy of the order filed as aforesaid, together
 6 with a written notice that it has been filed and will be put
 7 in force unless the owner, occupant, or tenant shall file
 8 with the clerk of the court his objections or answer thereto
 9 within the time specified in 50-62-104, shall be served upon
 10 the owner and any purchaser under contract for deed of the
 11 building or structure directed to be altered, repaired, or
 12 demolished. If there is a tenant occupying the building,
 13 service shall also be made upon him. Service shall be made
 14 upon the owner and occupant, if there is one, personally
 15 either within or without the state.

16 (4) If the whereabouts of the owner or any purchaser
 17 under contract for deed is unknown and cannot be
 18 ascertained by the ~~state-fire-marshal~~ department of justice
 19 by the exercise of reasonable diligence, then upon his
 20 filing in the office of the clerk of the district court his
 21 an affidavit to this effect, service of the notice upon the
 22 owner or any purchaser under contract for deed may be made
 23 by the clerk of the district court by publication of it once
 24 in each week for 3 successive weeks in a newspaper printed
 25 and published in the county in which the building or

1 structure is located and by posting a copy thereof in a
 2 conspicuous place upon the building or structure, and the
 3 service so made is complete upon the expiration of the
 4 publication period. Proof of service of the notice shall be
 5 filed in the office of the clerk of the district court
 6 within 5 days after the service thereof."

7 **Section 26.** Section 50-62-104, MCA, is amended to read:

8 **"50-62-104. Answer of owner or occupant.** (1) The owner
 9 of any building so condemned or any occupant or lessee upon
 10 whom such notice or order shall be served, within 20 days
 11 from the date of such service, may file with the clerk of
 12 the district court and serve upon the ~~said--state--fire~~
 13 ~~marshal--a-deputy-state-fire-marshal,~~ department of justice
 14 or any officer mentioned in 50-62-101 written objections to
 15 said order in the form of a verified answer denying the
 16 existence of any of the facts therein cited which he desires
 17 to controvert.

18 (2) If an answer be filed and served, the court shall
 19 hear and determine the issues so raised and give judgment
 20 thereon."

21 **Section 27.** Section 50-62-105, MCA, is amended to read:

22 **"50-62-105. Default judgment.** If no answer is so filed
 23 and served, the owner and all other persons in interest
 24 shall be deemed to be in default, and thereupon the court
 25 shall affirm the order of condemnation and direct the state

1 fire-marshal department of justice or other officer to
 2 proceed with the enforcement thereof."

3 **Section 28.** Section 50-62-106, MCA, is amended to read:

4 **"50-62-106. Hearing and judgment.** (1) The court, upon
 5 application of the ~~state-fire--marshal--deputy--state--fire~~
 6 ~~marshal,~~ department of justice or any officer mentioned in
 7 50-62-101, shall make its order fixing a time and place for
 8 such hearing, which time shall be within 20 days from the
 9 date of the filing of the answer or as soon thereafter as
 10 the matter may be heard.

11 (2) If, upon such trial the order shall be sustained,
 12 judgment shall be given accordingly and a time shall be
 13 fixed within which the building or structure shall be
 14 altered, destroyed, or repaired in compliance with such
 15 order, but otherwise the court shall annul or set aside the
 16 order of condemnation."

17 **Section 29.** Section 50-62-107, MCA, is amended to read:

18 **"50-62-107. Proceedings on failure to comply with**
 19 **order.** (1) If the owner or other party in interest shall
 20 fail to comply with the order of condemnation of a building
 21 or structure within the time fixed by the court in case a
 22 trial is had therein, then the ~~state-fire-marshal~~ department
 23 of justice or any other officer authorized in 50-62-101 may
 24 proceed to cause such building or structure to be altered,
 25 repaired, or demolished in accordance with the directions

1 contained in such order.

2 (2) Where a building or structure is demolished in
3 accordance with such order, the ~~state---fire---marshal~~
4 department or any other officer authorized in 50-62-101 may
5 sell or dispose of the salvaged materials therefrom at
6 public auction upon 5 days' posted notice. ~~This-person~~ The
7 department or other officer shall keep an accurate account
8 of the expenses incurred in carrying out the order and shall
9 credit thereon the proceeds of such salvage sale, if any,
10 and shall report ~~his-action~~ thereon with a statement of said
11 expenses or the balance thereof, the expense incurred by
12 him, and the amount, if any, received from such salvage sale
13 to the court for approval and allowance. The court shall
14 examine, correct if necessary, and allow said expense
15 account, and said amount so allowed shall constitute a lien
16 against the real estate on which said building or structure
17 is or was situated. If the amount thereof is not paid by the
18 owner or other party in interest within 3 months after the
19 account has been examined and approved by the court, the
20 real estate upon which said building or structure is or was
21 situated shall be sold under proper order of court by the
22 sheriff of the county in which the same is situated in the
23 manner provided by law for the sale of real estate upon
24 execution, and the proceeds of said sale shall be paid into
25 the treasury of the governmental unit which incurred the

1 expenses. If the amount received as salvage or on sale shall
2 exceed the expense incurred by the governmental unit, the
3 court shall direct the payment of the surplus to those
4 parties with encumbrances, mortgages, or liens on the real
5 estate in order of their priority and any surplus thereafter
6 to the owner or the payment of the same into court for their
7 use and benefit."

8 **Section 30.** Section 50-62-110, MCA, is amended to read:
9 "50-62-110. Appeal to ~~state-fire-marshal~~ department of
10 justice. If the owner or occupant deems himself aggrieved by
11 an order of an officer under this chapter, he may appeal to
12 the ~~state-fire-marshal~~ department of justice within 24 hours
13 and the cause of the complaint shall at once be investigated
14 by direction of the ~~state-fire-marshal~~ department. Unless
15 such order is revoked by the ~~state-fire-marshal~~ department,
16 it shall remain in force and forthwith be complied with by
17 such owner or occupant."

18 **Section 31.** Section 50-62-111, MCA, is amended to read:
19 "50-62-111. Penalty for failure to comply with order to
20 correct. An owner or occupant of buildings or premises who
21 fails to comply with the orders of the authorities named in
22 this chapter shall be guilty of a misdemeanor and shall be
23 fined not less than \$10 or more than \$50 \$500 for each day's
24 neglect."

25 **Section 32.** Section 50-63-101, MCA, is amended to read:

1 **"50-63-101. Examination of premises where fire occurred**
 2 **authorized.** In the performance of the duties imposed by the
 3 provisions of this chapter, ~~the state fire marshal and each~~
 4 ~~of his subordinates at all times of day or night~~ officers of
 5 the department of justice may, as authorized by law, enter
 6 upon and examine any building or premises where a fire has
 7 occurred and other buildings and premises adjoining or near
 8 thereto."

9 **Section 33.** Section 50-63-201, MCA, is amended to read:

10 **"50-63-201. Cause of fire to be investigated.** The
 11 cause, origin, and circumstances of each fire by which
 12 property has been destroyed or damaged shall be investigated
 13 to determine the exact cause and circumstances. The ~~state~~
 14 ~~fire marshal~~ department of justice may superintend and
 15 direct the investigation ~~if he deems it necessary.~~"

16 **Section 34.** Section 50-63-203, MCA, is amended to read:

17 **"50-63-203. Reports to be filed with fire--marshal**
 18 department of justice. (1) If it appears that the fire was
 19 of suspicious origin, or if there was a loss of human life,
 20 or if it is determined that a criminal investigation is
 21 necessary, the official responsible for the investigation
 22 shall notify the ~~state fire marshal~~ department of justice
 23 and the appropriate law enforcement agency within 24 hours
 24 and shall file a written report of the cause with the ~~state~~
 25 ~~fire marshal~~ department within 10 days.

1 (2) If the property was insured, as soon as any
 2 adjustment has been made, a person representing the
 3 insurance company shall notify the ~~state--fire--marshal~~
 4 department of the amount of adjustment and the apparent
 5 cause and circumstances of the fire on forms furnished by
 6 the ~~state fire marshal~~ department.

7 (3) Each official responsible for investigating fires
 8 shall file a fire incident report on each ~~and--every~~ fire
 9 with the ~~state fire marshal~~ department. Reports shall be on
 10 forms and shall contain information prescribed by the ~~state~~
 11 ~~fire--marshal~~ department. These reports shall be sent to the
 12 ~~state fire marshal~~ department on a weekly monthly basis or
 13 at intervals determined necessary by the department."

14 **Section 35.** Section 52-2-733, MCA, is amended to read:

15 **"52-2-733. Periodic visits to facilities by department**
 16 ~~-- investigations --~~ ~~consultation with licensees and~~
 17 ~~registrants.~~ (1) The department or its authorized
 18 representative shall make periodic visits to all licensed
 19 day-care centers to ensure that minimum standards are
 20 maintained.

21 (2) The department may investigate and inspect the
 22 conditions and qualifications of any day-care center, group
 23 day-care home, or family day-care home seeking or holding a
 24 license or registration certificate under the provisions of
 25 this part.

1 (3) The department must visit and inspect at least 20%
2 of all registered family day-care homes and group day-care
3 homes in each of the governor's planning regions annually.

4 (4) The department shall make annual unannounced visits
5 to day-care centers.

6 (5) Upon request of the department, the department of
7 health and environmental sciences or the state fire marshal
8 ~~or--his-designee~~ prevention and investigation program of the
9 department of justice shall inspect any day care facility
10 for which a license or registration certificate is applied
11 for or issued and shall report its findings to the
12 department.

13 (6) Upon request, the department shall give
14 consultation to every licensee and registrant who desires to
15 upgrade the services of his program.

16 (7) Nothing in this section may be construed to require
17 the department to conduct an inspection of each day-care
18 facility applying for a registration certificate under the
19 provisions of this part."

20 **Section 36.** Section 52-2-734, MCA, is amended to read:

21 "52-2-734. Fire safety -- certification required. (1)
22 The state fire marshal prevention and investigation program
23 of the department of justice shall adopt and enforce rules
24 for the protection of children in day-care centers from fire
25 hazards and arrange for such inspections and investigations

1 as it considers necessary.

2 (2) Before a license can be issued to operate a
3 day-care center, each applicant shall submit to the
4 department a certificate of approval from the state fire
5 marshal prevention and investigation program of the
6 department of justice ~~or-his-designee~~, indicating that fire
7 safety rules have been met."

8 **Section 37.** Section 50-78-301, MCA, is amended to read:

9 "50-78-301. **Emergency and community information.** (1) An
10 employer shall comply with the provisions of the federal
11 Emergency Planning and Community Right-to-Know Act of 1986
12 or be subject to the enforcement provisions thereof.

13 (2) The local fire chief must be permitted onsite
14 inspection of hazardous chemicals in any workplace,
15 including workplaces under the control of a state agency,
16 for the purposes of planning fire department activities in
17 case of an emergency and reviewing compliance with this
18 chapter. For a workplace that employs fire safety personnel,
19 the local fire chief shall consult with the responsible fire
20 safety official to clarify respective roles and response
21 procedures in the event of an emergency.

22 (3) As a result of an inspection, the local fire chief
23 may note and report for possible action by the county
24 attorney or other appropriate law enforcement official any
25 violation by an employer of a provision of this chapter or

1 any other law pertaining to hazardous chemicals or fire
2 safety.

3 (4) The local fire chief shall consult at least
4 annually on safety and emergency considerations with each
5 person responsible for the operation of any research,
6 educational, or testing laboratory workplace. The
7 consultation may result in recommendations ~~or~~~~under~~~~the~~
8 ~~provisions--of--50-62-1087--orders~~ by the fire chief to be
9 implemented by the laboratory operator to enhance public
10 safety, to reduce the likelihood of emergency incidents, or
11 to improve emergency response in the event of an accident.
12 The person responsible for the operation of the laboratory
13 shall contact the local fire chief at any time there is a
14 significant change in the location or nature of the
15 hazardous chemicals in the workplace, initiation of any new
16 and potentially dangerous method of processing or reacting
17 hazardous chemicals, or any other operational change
18 affecting emergency response considerations."

19 NEW SECTION. Section 38. Repealer. Sections 50-3-104,
20 50-3-105, 50-3-107, 50-3-108, 50-61-104, 50-61-105,
21 50-61-107, 50-61-108, 50-61-109, 50-61-110, 50-61-111,
22 50-62-108, 50-62-109, 50-63-301, 50-63-302, 50-63-303,
23 50-63-304, 50-63-305, 50-63-306, 50-63-307, and 50-63-308,
24 MCA, are repealed.

25 NEW SECTION. Section 39. Coordination instruction. If

1 Bill No. [LC 1119] is not passed and approved creating
2 a fire prevention and investigation account in the state
3 special revenue fund, then [section 13(2) of this act] is
4 void.

5 NEW SECTION. Section 40. Effective date. [This act] is
6 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 HB0896, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to generally revise certain statutes pertaining to the powers and duties of the State Fire Marshal.

ASSUMPTIONS:

Department of Justice:


1. The volume of permits, licenses and certificates for fire extinguishers/fire alarms issued in FY90 will remain constant in FY92 and FY93. General fund revenue from fire extinguisher/fire alarm licenses and permits was \$735 for FY90.
2. Section 13 of the proposed legislation would allow the fee charged to double.

Legislative Council:

3. The statutory name change required by HB0896 will be accomplished by the Code Commissioner executing his prescribed duties under 1-11,204, MCA, and can be done within existing responsibilities.
4. No assumptions are made on Sections 2 through 40 of the bill and no attempt will be made to assess any fiscal impact.

FISCAL IMPACT:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Revenue:</u>						
Fire extinguishers permits (01)	700	1,400	700	700	1,400	700
Impact to General Fund	700	1,400	700	700	1,400	700

 2-21-91
 ROD SUNDSTED, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 2/23/91
 MARY LOU PETERSON, PRIMARY SPONSOR DATE

Fiscal Note for HB0896, as introduced

HB 896

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 896

INTRODUCED BY PETERSON, SPRING, PECK,
SIMPKINS, TVEIT, ZOOK, WANZENRIED, FELAND
BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE
CERTAIN STATUTES PERTAINING TO THE POWERS AND DUTIES OF THE
STATE FIRE MARSHAL; CHANGING CERTAIN STATUTORY REFERENCES TO
THE STATE FIRE MARSHAL TO THE DEPARTMENT OF JUSTICE;
AMENDING SECTIONS 2-15-1519, 2-15-2005, 2-15-2108, 50-3-101,
50-3-102, 50-3-103, 50-3-106, 50-39-101, 50-39-102,
50-39-103, 50-39-104, 50-39-105, 50-39-202, 50-61-101,
50-61-102, 50-61-106, 50-61-114, 50-61-115, 50-61-117,
50-61-118, 50-61-121, 50-62-101, 50-62-102, 50-62-103,
50-62-104, 50-62-105, 50-62-106, 50-62-107, 50-62-110,
50-62-111, 50-63-101, 50-63-201, 50-63-203, 50-78-301,
52-2-733, AND 52-2-734, MCA; REPEALING SECTIONS 50-3-104,
50-3-105, 50-3-107, 50-3-108, 50-61-104, 50-61-105,
50-61-107, 50-61-108, 50-61-109, 50-61-110, 50-61-111,
50-62-108, 50-62-109, 50-63-301, 50-63-302, 50-63-303,
50-63-304, 50-63-305, 50-63-306, 50-63-307, AND 50-63-308,
MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1.** Name of fire marshal changed

-- instructions to code commissioner. (1) The name of the
state fire marshal is changed to the state fire prevention
and investigation program of the department of justice.

(2) Unless inconsistent with {sections 1 through 37},
wherever the term "state fire marshal" or "fire marshal"
appears in the Montana Code Annotated, the code commissioner
shall change the term to the "state fire prevention and
investigation program of the department of justice", "fire
prevention and investigation program" (of the department of
justice), or "program", as appropriate. The code
commissioner shall also conform internal references and
grammar to these changes.

Section 2. Section 2-15-1519, MCA, is amended to read:

***2-15-1519. Fire services training advisory council.**

(1) The board of regents shall appoint a fire services
training advisory council to work with the director of the
fire services training school. The membership of the council
shall include the following:

- (a) a fire chief;
- (b) a volunteer firefighter;
- (c) a paid firefighter;
- (d) a fire service instructor;
- (e) a person involved in fire prevention;
- (f) a representative of the insurance industry; and
- (g) a professional educator.

1 (2) The board shall solicit and consider the
2 recommendations of appropriate organizations and
3 associations of fire service personnel in making
4 appointments under subsection (1) of this section.

5 (3) Members appointed shall serve for a 4-year term and
6 may be removed for cause. If a vacancy occurs, a member
7 shall be appointed to fill the unexpired term. A member may
8 be reappointed.

9 (4) ~~The state fire marshal~~ A representative of the
10 state fire prevention and investigation program of the
11 department of justice, a fire control officer designated by
12 the commissioner of state lands, and the director of the
13 fire services training school are ex officio members of the
14 council."

15 **Section 3.** Section 2-15-2005, MCA, is amended to read:

16 "2-15-2005. State fire marshal prevention and
17 investigation program -- advisory council. (1) There is a
18 state fire marshal prevention and investigation program in
19 the department of justice ~~who is~~ and under the supervision
20 and control of the attorney general.

21 (2) A person appointed to administer the fire
22 prevention and investigation program shall represent the
23 state of Montana as the state fire marshal and must be a
24 person qualified by experience, training, and high
25 professional competence in matters of fire service and

1 safety. state fire marshal shall have:
2 (a) at least 10 years of progressively responsible
3 experience in fire protection;
4 (b) a 2-year associate degree in fire protection
5 engineering from a recognized institution of higher
6 education and 2 years' experience in fire protection; or
7 (c) a degree from a recognized institution of higher
8 education in fire protection engineering or fire protection
9 technology;

10 (3) The attorney general shall create a fire ~~marshal~~
11 prevention and investigation advisory council in accordance
12 with procedures provided in 2-15-122."

13 **Section 4.** Section 2-15-2108, MCA, is amended to read:

14 "2-15-2108. Petroleum tank release compensation board.

15 (1) There is a petroleum tank release compensation board.

16 (2) The board consists of seven members appointed by
17 the governor as follows:

18 (a) the director of the department of health and
19 environmental sciences or his representative;

20 (b) ~~the state fire marshal or his representative~~ a
21 representative of the state fire prevention and
22 investigation program of the department of justice;

23 (c) a representative of the petroleum services
24 industry;

25 (d) a representative of independent petroleum marketers

1 and chain retailers;

- 2 (e) a representative of the general public;
- 3 (f) a representative of service station dealers; and
- 4 (g) a representative of the insurance industry.

- 5 (3) The board shall elect a chairman.
- 6 (4) The term of membership is 3 years.
- 7 (5) Members shall serve without pay, but are entitled
- 8 to reimbursement for travel, meals, and lodging while
- 9 engaged in board business, as provided in 2-18-501 through
- 10 2-18-503."

11 **Section 5.** Section 50-3-101, MCA, is amended to read:

12 "~~50-3-101. Fire-marshai-defined~~ Definitions. In this

13 chapter, "department" means the department of justice and

14 "fire marshai prevention and investigation program" or

15 "~~state-fire-marshai~~" means the state fire marshai prevention

16 and investigation program of the department of justice

17 provided for in 2-15-2005."

18 **Section 6.** Section 50-3-102, MCA, is amended to read:

19 "~~50-3-102. Powers and duties of department regarding~~

20 state fire marshai prevention and investigation. (1) For the

21 purpose of reducing the state's fire loss, the ~~state--fire~~

22 marshai department shall:

- 23 ~~{a}--make--at--least--one--inspection--a--year--of--each--state~~
- 24 ~~institution--and--submit--a--copy--of--the--report--to--the~~
- 25 ~~department--of--institutions--with--recommendations--in--regard--to~~

1 ~~fire-prevention, fire-protection, and public safety;~~

- 2 ~~{b}--make--at--least--one--inspection--a--year--of--each--unit--of~~
- 3 ~~the--Montana--university--system--and--submit--a--copy--of--the~~
- 4 ~~report--to--the--commissioner--of--higher---education---with~~
- 5 ~~recommendations---in---regard---to---fire--prevention, fire~~
- 6 ~~protection, and public safety;~~

- 7 ~~{c}--inspect--other--state--owned--buildings--and--submit--a~~
- 8 ~~report---to---the---department---of---administration---with~~
- 9 ~~recommendations--in--regard--to--fire--prevention, fire~~
- 10 ~~protection, and public safety;~~

- 11 ~~{c}{d}(A)~~ inspect STATE-OWNED AND OTHER public,
- 12 BUILDINGS AND business, or industrial buildings, as provided
- 13 in chapter 61, and require conformance to law and rules
- 14 promulgated under the provisions of this chapter;

- 15 ~~{d}{e}(B)~~ assist local fire and law enforcement
- 16 authorities in arson investigations and may initiate or
- 17 supervise such these investigations when, in his its
- 18 judgment, the initiation or supervision is necessary;

- 19 ~~{e}--review--all--training--programs--on--investigation--of~~
- 20 ~~accidental--and--incendiary--fires;~~

- 21 ~~{f}(C)~~ provide fire prevention and fire protection
- 22 information to public officials and the general public;

- 23 ~~{g}--encourage--and--assist--local--fire--authorities--in--fire~~
- 24 ~~prevention--programs--and--adopt--standards--and--implement--a~~
- 25 ~~program---to---encourage---fire--departments--to--meet--such~~

1 standards;

2 ~~(h)(g)(D)~~ he serve as the state entity primarily
3 responsible for promoting fire safety at the state level and
4 ~~to represent the state in structural fire matters;~~

5 ~~(i)(h)(E)~~ encourage coordination of all services and
6 agencies in structural fire prevention matters to reduce
7 duplication and fill voids in services;

8 ~~(j)(i)(F)~~ establish rules concerning responsibilities
9 and procedures to be followed when there is a threat of
10 explosive material in a building housing state offices; and

11 ~~(k)(j)(G)~~ keep in his office a record of all fires
12 occurring in the state, the origin of the fires, and all
13 facts, statistics, and circumstances relating thereto which
14 to the fires that have been determined by investigations
15 under the provisions of chapter 63. ~~of this title; and~~
16 except ~~Except~~ for statements of witnesses given during an
17 investigation, and information that may be held in
18 confidence under 50-63-403, and criminal justice information
19 subject to restrictions on dissemination in accordance with
20 Title 44, chapter 5, the record shall must be open at all
21 times to public inspection; ~~and~~

22 ~~(i) make an annual report to the attorney general~~
23 ~~containing a detailed statement of his official action and~~
24 ~~the transactions of his department; and the attorney general~~
25 ~~shall, in turn, submit the report to the governor with such~~

1 ~~recommendations and comments thereon as he considers~~
2 ~~necessary.~~

3 (2) The ~~state fire marshal~~ department may adopt rules
4 necessary for safeguarding life and property from the
5 hazards of fire and carrying into effect the fire prevention
6 laws of this state.

7 (3) The ~~state fire marshal~~ department shall adopt rules
8 based on nationally recognized standards necessary for
9 safeguarding life and property from the hazards associated
10 with the manufacture, transportation, storage, sale, and use
11 of explosive materials.

12 (4) If necessary to safeguard life and property under
13 rules promulgated pursuant to this section, the ~~state fire~~
14 ~~marshal~~ department may maintain an action to enjoin the use
15 of all or a portion of a building or restrain a specific
16 activity until there is compliance with the rules."

17 **Section 7.** Section 50-3-103, MCA, is amended to read:

18 **"50-3-103. Rules promulgated by ~~state fire marshal~~**
19 **~~department.~~** (1) Rules promulgated by the ~~state fire marshal~~
20 **~~department~~** by authority of 50-3-102 ~~shall must~~ be reasonable
21 and calculated to effect the purposes of this chapter. They
22 ~~shall must~~ include but are not be limited to requirements
23 for design, construction, installation, operation, storage,
24 handling, maintenance, or use of structural requirements for
25 various types of construction; building restrictions within

1 congested districts; exit facilities from structures; fire
 2 extinguishers, fire alarm systems, and fire extinguishing
 3 systems; fire emergency drills; flue and chimney
 4 construction; heating devices; electrical wiring and
 5 equipment; air conditioning, ventilating, and other duct
 6 systems; refrigeration systems; flammable liquids; oil and
 7 gas wells; application of flammable finishes; explosives,
 8 acetylene, liquefied petroleum gas, and similar products;
 9 calcium carbide and acetylene generators; flammable motion
 10 picture film; combustible fibers; hazardous chemicals or
 11 materials; rubbish; ~~open-flame~~ open-flame devices; parking
 12 of vehicles; dust explosions; lightning protection; storage
 13 of smokeless powder and small arms primers; and other
 14 special fire hazards.

15 (2) If rules relate to building and equipment standards
 16 covered by the state or a municipal building code, the rules
 17 are effective upon approval of the department of commerce
 18 and filing with the secretary of state.

19 (3) ~~Standards of the national fire protection~~
 20 ~~association, United States bureau of standards, and American~~
 21 ~~insurance association~~ Federal or other nationally recognized
 22 standards for fire protection may be adopted in whole or in
 23 part by reference.

24 (4) Rules ~~shall~~ must be adopted as prescribed in the
 25 Montana Administrative Procedure Act.

1 (5) Any A person violating any rule made under the
 2 provisions of this part ~~shall be~~ is guilty of a
 3 misdemeanor."

4 **Section 8.** Section 50-3-106, MCA, is amended to read:

5 "50-3-106. Appointment of special deputy--state-fire
 6 marshals fire inspectors. (1) ~~The--state--fire--marshal--may~~
 7 ~~appoint--special--deputy--state-fire-marshals-throughout-the~~
 8 ~~state-and-define-their-duties.~~ Special fire inspectors may
 9 be appointed to perform any function of the fire prevention
 10 and investigation program.

11 (2) When performing these duties or attending a
 12 training course ~~conducted-by-the-state-fire-marshal~~ approved
 13 by the department, ~~special deputy--fire--marshals~~ fire
 14 inspectors may be paid at a rate not to exceed \$56 a day
 15 plus travel expenses as provided for in 2-18-501 through
 16 2-18-503, as amended."

17 **Section 9.** Section 50-39-101, MCA, is amended to read:

18 "50-39-101. Certificate of registration, permit, and
 19 license required. A natural person ~~must~~ shall obtain a
 20 certificate of registration from the ~~state--fire--marshal~~
 21 department of justice prior to servicing or installing of
 22 fire extinguishers, fire alarm systems, or fire
 23 extinguishing systems. A person or firm ~~must~~ shall obtain
 24 from the ~~fire-marshal~~ department a permit to sell or a
 25 license to install fire extinguishers, fire alarm systems,

1 or fire extinguishing systems prior to engaging in such the
 2 business."

3 **Section 10.** Section 50-39-102, MCA, is amended to read:

4 **"50-39-102. Application for certificate, permit, and**
 5 **license.** (1) Applications for licenses, permits, or
 6 certificates ~~shall~~ must be made on a form prescribed by the
 7 ~~state-fire-marshai~~ department of justice.

8 (2) The ~~fire-marshai~~ department shall issue a license
 9 to an applicant who submits satisfactory proof that he is
 10 properly equipped and staffed to provide the services to be
 11 licensed and who pays the required fee.

12 (3) The ~~fire---marshai~~ department shall issue a
 13 certificate of registration to an applicant who scores a
 14 passing grade on an examination devised by the ~~fire-marshai~~
 15 department and who pays the required fee.

16 (4) The ~~fire-marshai~~ department shall issue a sales
 17 permit to an applicant who submits the information required
 18 by the ~~fire-marshai~~ department on the application form, who
 19 submits satisfactory proof that he deals only in equipment
 20 that meets the standards and regulations of the ~~state--fire~~
 21 ~~marshai~~ department, and who pays the required fee."

22 **Section 11.** Section 50-39-103, MCA, is amended to read:

23 **"50-39-103. Inspections and examinations authorized.**
 24 The ~~state--fire--marshai~~ department of justice may conduct
 25 inspections, examinations, or hearings prior to the issuance

1 of licenses, permits, or certificates."

2 **Section 12.** Section 50-39-104, MCA, is amended to read:

3 **"50-39-104. Revocations and suspensions authorized.** The
 4 ~~state--fire--marshai~~ department of justice may revoke,
 5 suspend, or refuse to issue a license, permit, or
 6 certificate for violation of the provisions of this part or
 7 any rules promulgated by the ~~fire-marshai~~ department under
 8 applicable law."

9 **Section 13.** Section 50-39-105, MCA, is amended to read:

10 **"50-39-105. Fees.** (1) The ~~state--fire--marshai--or--his~~
 11 ~~representative~~ department of justice shall charge a fee, ~~not~~
 12 ~~to-exceed-a-total-of-\$25,~~ for the inspection and issuance of
 13 licenses, permits, and certificates. The fee may not exceed
 14 \$50 for each license, permit, or certificate issued.

15 (2) All fees collected under this section ~~shall~~ must be
 16 paid into the ~~general-fund~~ fire prevention and investigation
 17 account in the state special revenue fund."

18 **Section 14.** Section 50-39-202, MCA, is amended to read:

19 **"50-39-202. Fire marshai prevention and investigation**
 20 **program** to direct standardization. The standardization of
 21 existing fire protection equipment in this state shall be
 22 arranged for and carried out by or under the direction of
 23 the state fire marshai---of---Montana prevention and
 24 investigation program of the department of justice. The
 25 ~~state-fire-marshai~~ program is authorized to proceed to make

1 such changes as may be necessary to standardize all existing
 2 fire protection equipment in this state immediately after
 3 March 17, 1929. The program shall provide such appliances
 4 as are necessary for carrying on this work and shall proceed
 5 with such standardization as rapidly as possible and
 6 complete such the work at the earliest date circumstances
 7 will permit."

8 **Section 15.** Section 50-61-101, MCA, is amended to read:

9 "50-61-101. Purpose of chapter. The purpose and intent
 10 of this chapter is are to provide for the public safety in
 11 case of fire in those occupancies specified in 50-61-103, to
 12 provide for fire escapes, fire fighting apparatus, fire
 13 alarms, and to provide for inspection of such the buildings
 14 and premises by specified officers."

15 **Section 16.** Section 50-61-102, MCA, is amended to read:

16 "50-61-102. Fire--marshal Department of justice to
 17 administer chapter. (1) The state fire marshal department of
 18 justice has general charge and supervision of the
 19 enforcement of this chapter, and the officers enumerated in
 20 50-61-114 shall act under his its general charge and
 21 supervision, shall assist him the department in giving
 22 effect to this chapter, and are subject to his its direction
 23 and the rules adopted under 50-3-102 and 50-3-103 for the
 24 enforcement of 50-61-120 and 50-61-121 and this chapter.

25 (2) Upon its approval of a fire code and a plan for

1 enforcement of the code filed by a municipality or district,
 2 the department may certify a municipal or district fire
 3 inspection program for local enforcement."

4 **Section 17.** Section 50-61-106, MCA, is amended to read:

5 "50-61-106. Unlawful to obstruct fire escape exit. It
 6 shall be is unlawful to obstruct in any manner whatsoever
 7 any fire escape exit, or any hallway, corridor, or
 8 entranceway leading to a fire exit, required by the
 9 provisions---of---this---chapter---or---hallway,---corridor,---or
 10 entranceway---leading---thereto rules adopted by the department
 11 of justice."

12 **Section 18.** Section 50-61-114, MCA, is amended to read:

13 "50-61-114. Fire chief and county---sheriff fire
 14 inspector to make inspections. The chief of the fire
 15 department of each municipality or district where when a
 16 fire department inspection program is established and the
 17 county sheriff or deputy fire marshals or a fire inspector
 18 of the department of justice where when no fire department
 19 inspection program exists shall, for the purpose of
 20 examining the premises for violations of this chapter and
 21 rules adopted under 50-3-103 for the enforcement of this
 22 chapter:

23 (1) shall enter into school buildings at least once
 24 each 12 months; and

25 (2) may enter into all other buildings and upon all

1 other premises within their his jurisdiction, according to
 2 priority schedules established by the department for
 3 conducting inspections of buildings and premises at least
 4 once each 18 months."

5 **Section 19.** Section 50-61-115, MCA, is amended to read:

6 "50-61-115. Notice of violations. (1) When a building
 7 is found ~~which requires the erection of fire escapes and~~
 8 ~~upon which fire escapes have not been erected according to~~
 9 ~~the provisions of this chapter or if fire hoses, fire~~
 10 ~~extinguishers, fire alarms, or other fire apparatus is found~~
 11 ~~to be lacking or defective or not in good working condition,~~
 12 that is not in compliance with fire safety rules promulgated
 13 by the department of justice, the person making the
 14 inspection or the ~~state fire marshal~~ department shall serve
 15 a written notice upon the party whose duty it is to erect
 16 ~~the fire escapes or maintain such fire apparatus~~ maintain
 17 the safety of the building.

18 (2) The notice ~~shall~~ must specify the time within which
 19 ~~the fire escapes shall be erected or~~ the defective
 20 conditions must be remedied, which may not be more than 90
 21 days.

22 (3) The notice is served if delivered to the person to
 23 be notified, if left with any adult person at the usual
 24 residence or place of business of the person to be notified,
 25 or if deposited in the post office directed to the ~~last~~

1 known last-known address of the person to be notified.
 2 Whenever buildings are managed and controlled by a board of
 3 trustees, board of commissioners, or other governing body,
 4 the notice is served if delivered to the president,
 5 secretary, or treasurer of the board of trustees, board of
 6 commissioners, or other governing body."

7 **Section 20.** Section 50-61-117, MCA, is amended to read:

8 "50-61-117. ~~Duty of fire marshal to file complaints of~~
 9 ~~violations duty of county attorney to prosecute~~
 10 ~~complaints~~ Prosecution of violations. It ~~shall be~~ is the duty
 11 of the ~~state fire marshal or any person authorized to act in~~
 12 ~~his stead~~ department of justice or other authorized officer
 13 ~~to file complaint for~~ furnish the county attorney with all
 14 evidence of violations of the provisions of this chapter in
 15 ~~any court of competent jurisdiction~~ rules adopted by the
 16 department within the county where said violations occur,
 17 and, if the evidence discloses the fact that a violation has
 18 occurred, it ~~shall be~~ is the duty of the county attorney of
 19 ~~such the~~ county to forthwith prosecute all such complaints
 20 ~~so filed~~ the person committing the violation in the same
 21 manner as in other cases."

22 **Section 21.** Section 50-61-118, MCA, is amended to read:

23 "50-61-118. Injunction authorized. In addition to the
 24 other remedies and penalties herein provided in this
 25 chapter, upon the failure of any of the parties charged with

1 the duty to ~~erect fire-escapes or to install and maintain~~
 2 ~~fire alarms or fire extinguishers or other fire apparatus~~
 3 maintain the safety of the building premises in accordance
 4 with ~~this chapter~~ rules adopted by the department of
 5 justice, the attorney general of the state or ~~any the~~ county
 6 attorney of the county where the building is located shall
 7 bring an action against the owner, lessee, and occupants of
 8 the building for an injunction enjoining the further
 9 occupancy of it until it is in compliance with this chapter.
 10 The action may be brought in the county where ~~such the~~
 11 building is located."

12 **Section 22.** Section 50-61-121, MCA, is amended to read:

13 "50-61-121. Restrictions on storage of smokeless powder
 14 and small arms primers. (1) A retail establishment may stock
 15 up to 400 pounds of smokeless powder on the premises of a
 16 building with a sprinkler system or 200 pounds on the
 17 premises of a building without a sprinkler system if storage
 18 of this stock conforms to the following conditions:

19 (a) no more than 20 pounds are on display in a customer
 20 service area;

21 (b) the storage area is clearly posted as off limits to
 22 customers;

23 (c) the storage area is clearly posted prohibiting
 24 smoking or any open flame or sparks; and

25 (d) the storage area is a room designed and constructed

1 to restrict smoke travel that is separate from the customer
 2 service area, that has a self-closing entrance door, and
 3 that conforms to one of the following:

4 (i) It is constructed of material sufficient to achieve
 5 a 1-hour fire resistant-rated barrier between the storage
 6 area and the customer service area. The smokeless powder
 7 must be stored in cabinets made of wood or equivalent
 8 material that is at least 1 inch thick, and each cabinet
 9 must contain no more than 200 pounds of smokeless powder.
 10 Cabinets must be separated by 25 feet.

11 (ii) It is protected by a fire suppression sprinkler
 12 system approved by the state fire marshal prevention and
 13 investigation program of the department of justice or a fire
 14 marshal of the local jurisdiction, and the storage area has
 15 cabinets as provided for in subsection (1)(d)(i).

16 (iii) Smokeless powder stock is contained in a cabinet
 17 with casters and constructed of wood at least 1 inch thick
 18 that is covered on all sides with 5/8-inch sheetrock.

19 (2) A retail establishment may stock up to 250,000
 20 small arms primers if storage of this stock conforms to the
 21 following conditions:

22 (a) no more than 20,000 primers in a building with a
 23 sprinkler system or 10,000 primers in a building without a
 24 sprinkler system are on display in a customer service area;

25 (b) the storage area must conform to the conditions

1 imposed in subsections (1)(a) through (1)(d), except that no
2 more than 125,000 small arms primers may be stored in one
3 cabinet, and the minimum required separation between
4 cabinets is 15 feet; and

5 (c) small arms primers are retained in packaging
6 approved by the U.S. department of transportation."

7 **Section 23.** Section 50-62-101, MCA, is amended to read:

8 **"50-62-101. Entering of buildings for purpose of**
9 **examination authorized. The state fire marshal, his deputies**
10 **and--subordinates, officers of the state fire prevention and**
11 **investigation program of the department of justice or the**
12 **chief of the fire department of each municipality or**
13 **district where a fire department is established, or the**
14 **county sheriff--where--no--fire--department--exists at all**
15 **reasonable hours may, as authorized by law, enter into all**
16 **buildings and upon all premises within their his**
17 **jurisdiction for the purpose of determining whether the**
18 **building or premise conforms to laws and rules relating to**
19 **fire hazards and fire safety."**

20 **Section 24.** Section 50-62-102, MCA, is amended to read:

21 **"50-62-102. Structures or conditions creating fire**
22 **hazard a public nuisance -- order to remedy. (1) Any If any**
23 **building or other structure which that for want of proper**
24 **repair; by reason of age, dilapidated condition, defective**
25 **or poorly installed wiring and equipment, defective**

1 chimneys, defective gas connections, defective heating
2 apparatus, or the existence of any combustible materials,
3 flammable conditions, or other fire hazards; or for any
4 other cause or reason is especially liable to fire and which
5 is dangerous to the safety of the building premises or to
6 the public or is so situated as to endanger other buildings
7 and property in the vicinity is--hereby--declared, the state
8 fire prevention and investigation program of the department
9 of justice or other officer may declare the building or
10 other structure to be a public nuisance and proceed
11 according to 50-62-103 or subsection (2) of this section.

12 (2) If the state fire prevention and investigation
13 program, an officer of the program, or an officer mentioned
14 in 50-62-101 determines that a building or other structure
15 constitutes a public nuisance for any reason identified in
16 subsection (1), the department or other officer shall order
17 the hazardous condition or material to be removed or
18 remedied. The order must be in writing and directed
19 generally to the owner, lessee, agent, or occupant of the
20 building or structure.

21 (3) If the hazardous condition or material can be
22 removed or remedied within a period of 24 hours, the order
23 must contain notice that the condition or material must be
24 remedied or removed. The owner, lessee, agent, or occupant
25 upon whom the notice is served who fails to comply with the

1 notice is liable for any expenses incurred in the removal or
 2 remedying of the hazardous condition or material by the fire
 3 prevention and investigation program or other officer
 4 mentioned in 50-62-101."

5 **Section 25.** Section 50-62-103, MCA, is amended to read:

6 "50-62-103. Service of order to repair hazardous
 7 condition or demolish structure. (1) If the state-fire
 8 marshal, a deputy state-fire marshal, fire prevention and
 9 investigation program of the department of justice or any
 10 officer mentioned in 50-62-101, upon an examination or
 11 inspection, finds determines that a building or other
 12 structure ~~which--for--want-of-proper-repair-or-by-reason-of~~
 13 ~~age-and-dilapidated-condition, defective-or-poorly-installed~~
 14 ~~electric-wiring-or-equipment, defective-chimneys,--defective~~
 15 ~~gas--connections--or--defective-heating-apparatus-or-for-any~~
 16 ~~other-cause-or-reason-is-especially-liable-to-fire-and-is-so~~
 17 ~~situated-as-to-endanger-other-buildings-or-property--in--the~~
 18 ~~vicinity,--he~~ constitutes a public nuisance for any reason
 19 identified in 50-62-102 and the condition cannot be removed
 20 or remedied within 24 hours, the program or officer shall
 21 order the structure hazardous condition to be repaired, or
 22 the structure to be torn down, or demolished and all
 23 ~~materials-removed-and-all~~ dangerous conditions remedied.

24 (2) The order shall be in writing, shall recite the
 25 grounds therefor, and shall be filed in the office of the

1 clerk of the district court of the county in which the
 2 building or structure ordered to be altered, repaired, or
 3 demolished is situated, and thereupon all further
 4 proceedings for the enforcement thereof shall be had in that
 5 court.

6 (3) A copy of the order filed as aforesaid, together
 7 with a written notice that it has been filed and will be put
 8 in force unless the owner, occupant, or tenant shall file
 9 with the clerk of the court his objections or answer thereto
 10 within the time specified in 50-62-104, shall be served upon
 11 the owner and any purchaser under contract for deed of the
 12 building or structure directed to be altered, repaired, or
 13 demolished. If there is a tenant occupying the building,
 14 service shall also be made upon him. Service shall be made
 15 upon the owner and occupant, if there is one, personally
 16 either within or without the state.

17 (4) If the whereabouts of the owner or any purchaser
 18 under contract for deed is unknown and cannot be
 19 ascertained by the ~~state-fire-marshal~~ department of justice
 20 by the exercise of reasonable diligence, then upon his
 21 filing in the office of the clerk of the district court his
 22 an affidavit to this effect, service of the notice upon the
 23 owner or any purchaser under contract for deed may be made
 24 by the clerk of the district court by publication of it once
 25 in each week for 3 successive weeks in a newspaper printed

1 and published in the county in which the building or
 2 structure is located and by posting a copy thereof in a
 3 conspicuous place upon the building or structure, and the
 4 service so made is complete upon the expiration of the
 5 publication period. Proof of service of the notice shall be
 6 filed in the office of the clerk of the district court
 7 within 5 days after the service thereof."

8 **Section 26.** Section 50-62-104, MCA, is amended to read:

9 **"50-62-104. Answer of owner or occupant.** (1) The owner
 10 of any building so condemned or any occupant or lessee upon
 11 whom such notice or order shall be served, within 20 days
 12 from the date of such service, may file with the clerk of
 13 the district court and serve upon the ~~said--state--fire~~
 14 ~~marshal,--a-deputy-state-fire-marshal,~~ department of justice
 15 or any officer mentioned in 50-62-101 written objections to
 16 said order in the form of a verified answer denying the
 17 existence of any of the facts therein cited which he desires
 18 to controvert.

19 (2) If an answer be filed and served, the court shall
 20 hear and determine the issues so raised and give judgment
 21 thereon."

22 **Section 27.** Section 50-62-105, MCA, is amended to read:

23 **"50-62-105. Default judgment.** If no answer is so filed
 24 and served, the owner and all other persons in interest
 25 shall be deemed to be in default, and thereupon the court

1 shall affirm the order of condemnation and direct the ~~state~~
 2 ~~fire-marshal~~ department of justice or other officer to
 3 proceed with the enforcement thereof."

4 **Section 28.** Section 50-62-106, MCA, is amended to read:

5 **"50-62-106. Hearing and judgment.** (1) The court, upon
 6 application of the ~~state-fire--marshal,--deputy--state--fire~~
 7 ~~marshal,~~ department of justice or any officer mentioned in
 8 50-62-101, shall make its order fixing a time and place for
 9 such hearing, which time shall be within 20 days from the
 10 date of the filing of the answer or as soon thereafter as
 11 the matter may be heard.

12 (2) If, upon such trial the order shall be sustained,
 13 judgment shall be given accordingly and a time shall be
 14 fixed within which the building or structure shall be
 15 altered, destroyed, or repaired in compliance with such
 16 order, but otherwise the court shall annul or set aside the
 17 order of condemnation."

18 **Section 29.** Section 50-62-107, MCA, is amended to read:

19 **"50-62-107. Proceedings on failure to comply with**
 20 **order.** (1) If the owner or other party in interest shall
 21 fail to comply with the order of condemnation of a building
 22 or structure within the time fixed by the court in case a
 23 trial is had therein, then the ~~state-fire-marshal~~ department
 24 of justice or any other officer authorized in 50-62-101 may
 25 proceed to cause such building or structure to be altered,

1 repaired, or demolished in accordance with the directions
2 contained in such order.

3 (2) Where a building or structure is demolished in
4 accordance with such order, the ~~state---fire---marshal~~
5 department or any other officer authorized in 50-62-101 may
6 sell or dispose of the salvaged materials therefrom at
7 public auction upon 5 days' posted notice. ~~This-person~~ The
8 department or other officer shall keep an accurate account
9 of the expenses incurred in carrying out the order and shall
10 credit thereon the proceeds of such salvage sale, if any,
11 and shall report ~~his-action~~ thereon with a statement of said
12 expenses or the balance thereof, the expense incurred by
13 him, and the amount, if any, received from such salvage sale
14 to the court for approval and allowance. The court shall
15 examine, correct if necessary, and allow said expense
16 account, and said amount so allowed shall constitute a lien
17 against the real estate on which said building or structure
18 is or was situated. If the amount thereof is not paid by the
19 owner or other party in interest within 3 months after the
20 account has been examined and approved by the court, the
21 real estate upon which said building or structure is or was
22 situated shall be sold under proper order of court by the
23 sheriff of the county in which the same is situated in the
24 manner provided by law for the sale of real estate upon
25 execution, and the proceeds of said sale shall be paid into

1 the treasury of the governmental unit which incurred the
2 expenses. If the amount received as salvage or on sale shall
3 exceed the expense incurred by the governmental unit, the
4 court shall direct the payment of the surplus to those
5 parties with encumbrances, mortgages, or liens on the real
6 estate in order of their priority and any surplus thereafter
7 to the owner or the payment of the same into court for their
8 use and benefit."

9 **Section 30.** Section 50-62-110, MCA, is amended to read:
10 "50-62-110. **Appeal to state-fire-marshala department of**
11 **justice.** If the owner or occupant deems himself aggrieved by
12 an order of an officer under this chapter, he may appeal to
13 the ~~state-fire-marshala~~ department of justice within 24 hours
14 and the cause of the complaint shall at once be investigated
15 by direction of the ~~state-fire-marshala~~ department. Unless
16 such order is revoked by the ~~state-fire-marshala~~ department,
17 it shall remain in force and forthwith be complied with by
18 such owner or occupant."

19 **Section 31.** Section 50-62-111, MCA, is amended to read:
20 "50-62-111. **Penalty for failure to comply with order to**
21 **correct.** An owner or occupant of buildings or premises who
22 fails to comply with the orders of the authorities named in
23 this chapter shall be guilty of a misdemeanor and shall be
24 finned not less than \$10 or more than \$50 \$500 for each day's
25 neglect."

1 **Section 32.** Section 50-63-101, MCA, is amended to read:

2 **"50-63-101. Examination of premises where fire occurred**
3 **authorized.** In the performance of the duties imposed by the
4 provisions of this chapter, ~~the state fire marshal and each~~
5 ~~of his subordinates at all times of day or night~~ officers of
6 the department of justice may, as authorized by law, enter
7 upon and examine any building or premises where a fire has
8 occurred and other buildings and premises adjoining or near
9 thereto."

10 **Section 33.** Section 50-63-201, MCA, is amended to read:

11 **"50-63-201. Cause of fire to be investigated.** The
12 cause, origin, and circumstances of each fire by which
13 property has been destroyed or damaged shall be investigated
14 to determine the exact cause and circumstances. The ~~state~~
15 ~~fire marshal~~ department of justice may superintend and
16 direct the investigation ~~if he deems it necessary.~~"

17 **Section 34.** Section 50-63-203, MCA, is amended to read:

18 **"50-63-203. Reports to be filed with fire--marshal**
19 department of justice. (1) If it appears that the fire was
20 of suspicious origin, or if there was a loss of human life,
21 or if it is determined that a criminal investigation is
22 necessary, the official responsible for the investigation
23 shall notify the ~~state fire marshal~~ department of justice
24 and the appropriate law enforcement agency within 24 hours
25 and shall file a written report of the cause with the ~~state~~

1 ~~fire marshal~~ department within 10 days.

2 (2) If the property was insured, as soon as any
3 adjustment has been made, a person representing the
4 insurance company shall notify the ~~state--fire--marshal~~
5 department of the amount of adjustment and the apparent
6 cause and circumstances of the fire on forms furnished by
7 the ~~state fire marshal~~ department.

8 (3) Each official responsible for investigating fires
9 shall file a fire incident report on each ~~and--every~~ fire
10 with the ~~state fire marshal~~ department. Reports shall be on
11 forms and shall contain information prescribed by the ~~state~~
12 ~~fire--marshal~~ department. These reports shall be sent to the
13 ~~state fire marshal~~ department on a weekly monthly basis or
14 at intervals determined necessary by the department."

15 **Section 35.** Section 52-2-733, MCA, is amended to read:

16 **"52-2-733. Periodic visits to facilities by department**
17 **-- investigations -- consultation with licensees and**
18 **registrants.** (1) The department or its authorized
19 representative shall make periodic visits to all licensed
20 day-care centers to ensure that minimum standards are
21 maintained.

22 (2) The department may investigate and inspect the
23 conditions and qualifications of any day-care center, group
24 day-care home, or family day-care home seeking or holding a
25 license or registration certificate under the provisions of

1 this part.

2 (3) The department must visit and inspect at least 20%
3 of all registered family day-care homes and group day-care
4 homes in each of the governor's planning regions annually.

5 (4) The department shall make annual unannounced visits
6 to day-care centers.

7 (5) Upon request of the department, the department of
8 health and environmental sciences or the state fire marshal
9 ~~or--his-designee~~ prevention and investigation program of the
10 department of justice shall inspect any day care facility
11 for which a license or registration certificate is applied
12 for or issued and shall report its findings to the
13 department.

14 (6) Upon request, the department shall give
15 consultation to every licensee and registrant who desires to
16 upgrade the services of his program.

17 (7) Nothing in this section may be construed to require
18 the department to conduct an inspection of each day-care
19 facility applying for a registration certificate under the
20 provisions of this part."

21 **Section 36.** Section 52-2-734, MCA, is amended to read:

22 "52-2-734. Fire safety -- certification required. (1)
23 The state fire marshal prevention and investigation program
24 of the department of justice shall adopt and enforce rules
25 for the protection of children in day-care centers from fire

1 hazards and arrange for such inspections and investigations
2 as it considers necessary.

3 (2) Before a license can be issued to operate a
4 day-care center, each applicant shall submit to the
5 department a certificate of approval from the state fire
6 marshal prevention and investigation program of the
7 department of justice ~~or-his-designee~~, indicating that fire
8 safety rules have been met."

9 **Section 37.** Section 50-78-301, MCA, is amended to read:

10 "50-78-301. Emergency and community information. (1) An
11 employer shall comply with the provisions of the federal
12 Emergency Planning and Community Right-to-Know Act of 1986
13 or be subject to the enforcement provisions thereof.

14 (2) The local fire chief must be permitted onsite
15 inspection of hazardous chemicals in any workplace,
16 including workplaces under the control of a state agency,
17 for the purposes of planning fire department activities in
18 case of an emergency and reviewing compliance with this
19 chapter. For a workplace that employs fire safety personnel,
20 the local fire chief shall consult with the responsible fire
21 safety official to clarify respective roles and response
22 procedures in the event of an emergency.

23 (3) As a result of an inspection, the local fire chief
24 may note and report for possible action by the county
25 attorney or other appropriate law enforcement official any

1 violation by an employer of a provision of this chapter or
2 any other law pertaining to hazardous chemicals or fire
3 safety.

4 (4) The local fire chief shall consult at least
5 annually on safety and emergency considerations with each
6 person responsible for the operation of any research,
7 educational, or testing laboratory workplace. The
8 consultation may result in recommendations ~~or~~~~under~~~~the~~
9 ~~provisions--of--50-62-108,--orders~~ by the fire chief to be
10 implemented by the laboratory operator to enhance public
11 safety, to reduce the likelihood of emergency incidents, or
12 to improve emergency response in the event of an accident.
13 The person responsible for the operation of the laboratory
14 shall contact the local fire chief at any time there is a
15 significant change in the location or nature of the
16 hazardous chemicals in the workplace, initiation of any new
17 and potentially dangerous method of processing or reacting
18 hazardous chemicals, or any other operational change
19 affecting emergency response considerations."

20 NEW SECTION. Section 38. Repealer. Sections 50-3-104,
21 50-3-105, 50-3-107, 50-3-108, 50-61-104, 50-61-105,
22 50-61-107, 50-61-108, 50-61-109, 50-61-110, 50-61-111,
23 50-62-108, 50-62-109, 50-63-301, 50-63-302, 50-63-303,
24 50-63-304, 50-63-305, 50-63-306, 50-63-307, and 50-63-308,
25 MCA, are repealed.

1 NEW SECTION. Section 39. Coordination instruction. If
2 Bill No. [LC 1119] is not passed and approved creating
3 a fire prevention and investigation account in the state
4 special revenue fund, then [section 13(2) of this act] is
5 void.

6 NEW SECTION. Section 40. Effective date. [This act] is
7 effective on passage and approval.

-End-

1 HOUSE BILL NO. 896
2 INTRODUCED BY PETERSON, SPRING, PECK,
3 SIMPKINS, TVEIT, ZOOK, WANZENRIED, PELAND
4 BY REQUEST OF THE DEPARTMENT OF JUSTICE
5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE
7 CERTAIN STATUTES PERTAINING TO THE POWERS AND DUTIES OF THE
8 STATE FIRE MARSHAL; CHANGING CERTAIN STATUTORY REFERENCES TO
9 THE STATE FIRE MARSHAL TO THE DEPARTMENT OF JUSTICE;
10 AMENDING SECTIONS 2-15-1519, 2-15-2005, 2-15-2108, 50-3-101,
11 50-3-102, 50-3-103, 50-3-106, 50-39-101, 50-39-102,
12 50-39-103, 50-39-104, 50-39-105, 50-39-202, 50-61-101,
13 50-61-102, 50-61-106, 50-61-114, 50-61-115, 50-61-117,
14 50-61-118, 50-61-121, 50-62-101, 50-62-102, 50-62-103,
15 50-62-104, 50-62-105, 50-62-106, 50-62-107, 50-62-110,
16 50-62-111, 50-63-101, 50-63-201, 50-63-203, 50-78-301,
17 52-2-733, AND 52-2-734, MCA; REPEALING SECTIONS 50-3-104,
18 50-3-105, 50-3-107, 50-3-108, 50-61-104, 50-61-105,
19 50-61-107, 50-61-108, 50-61-109, 50-61-110, 50-61-111,
20 50-62-108, 50-62-109, 50-63-301, 50-63-302, 50-63-303,
21 50-63-304, 50-63-305, 50-63-306, 50-63-307, AND 50-63-308,
22 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
23
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
25 NEW SECTION. **Section 1.** Name of fire marshal changed

There are no changes in this bill,
and will not be reprinted. Please
refer to yellow copy for complete
text.

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
April 10, 1991

Page 2 of 2
April 10, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 896 (third reading copy -- blue), respectfully report that House Bill No. 896 be amended and as so amended be concurred in:

1. Title, line 12.
Strike: "50-39-202,"

2. Title, line 18.
Following: "50-3-108,"
Insert: "50-39-201, 50-39-202, 50-39-203,"

3. Page 2, line 4.
Strike: "37"
Insert: "36"

4. Page 6.
Following: line 10
Insert: "(a) inspect each unit of the Montana university system and other state buildings, including state institutions, as often as its budget and other inspection duties allow, but no more frequently than once each year unless requested by the commissioner of higher education for buildings in the university system, by the department of institutions for state institutions, or by the department of administration for all other state buildings. A copy of the inspection report for units of the university system must be given to the commissioner of higher education, a copy of the inspection report for state institutions must be given to the department of institutions, and a copy of the inspection report for all other state buildings must be given to the department of administration. The department of justice shall advise the commissioner of higher education and the directors of the departments of institutions and administration concerning fire prevention, fire protection, and public safety when it distributes the reports."

Renumber: subsequent subsections

5. Page 6, line 11.
Strike: "STATE-OWNED AND OTHER"
Following: "public,"
Insert: ", "

6. Page 6, line 12.
Strike: "BUILDINGS AND"
Following: "business,"
Insert: ", "

7. Page 12, line 18 through line 7 on page 13.
Following: line 17
Strike: section 14 in its entirety

Renumber: subsequent sections

8. Page 31, line 9.
Following: "~~orders~~"
Insert: "or, under the provisions of 50-62-102, orders"

9. Page 31, line 21.
Following: "50-3-108,"
Insert: "50-39-201, 50-39-202, 50-39-203,"

Signed: Eleanor Vaughn
Eleanor Vaughn, Chairman

4-10-91
Add. Coord.

Sec. of Senate

1 HOUSE BILL NO. 896

2 INTRODUCED BY PETERSON, SPRING, PECK,
 3 SIMPKINS, TVEIT, ZOOK, WANZENRIED, FELAND
 4 BY REQUEST OF THE DEPARTMENT OF JUSTICE

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE
 7 CERTAIN STATUTES PERTAINING TO THE POWERS AND DUTIES OF THE
 8 STATE FIRE MARSHAL; CHANGING CERTAIN STATUTORY REFERENCES TO
 9 THE STATE FIRE MARSHAL TO THE DEPARTMENT OF JUSTICE;
 10 AMENDING SECTIONS 2-15-1519, 2-15-2005, 2-15-2108, 50-3-101,
 11 50-3-102, 50-3-103, 50-3-106, 50-39-101, 50-39-102,
 12 50-39-103, 50-39-104, 50-39-105, ~~50-39-202~~, 50-61-101,
 13 50-61-102, 50-61-106, 50-61-114, 50-61-115, 50-61-117,
 14 50-61-118, 50-61-121, 50-62-101, 50-62-102, 50-62-103,
 15 50-62-104, 50-62-105, 50-62-106, 50-62-107, 50-62-110,
 16 50-62-111, 50-63-101, 50-63-201, 50-63-203, 50-78-301,
 17 52-2-733, AND 52-2-734, MCA; REPEALING SECTIONS 50-3-104,
 18 50-3-105, 50-3-107, 50-3-108, 50-39-201, 50-39-202,
 19 50-39-203, 50-61-104, 50-61-105, 50-61-107, 50-61-108,
 20 50-61-109, 50-61-110, 50-61-111, 50-62-108, 50-62-109,
 21 50-63-301, 50-63-302, 50-63-303, 50-63-304, 50-63-305,
 22 50-63-306, 50-63-307, AND 50-63-308, MCA; AND PROVIDING AN
 23 IMMEDIATE EFFECTIVE DATE."

24
 25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:



1 NEW SECTION. Section 1. Name of fire marshal changed
 2 -- instructions to code commissioner. (1) The name of the
 3 state fire marshal is changed to the state fire prevention
 4 and investigation program of the department of justice.

5 (2) Unless inconsistent with [sections 1 through 37
 6 36], wherever the term "state fire marshal" or "fire
 7 marshal" appears in the Montana Code Annotated, the code
 8 commissioner shall change the term to the "state fire
 9 prevention and investigation program of the department of
 10 justice", "fire prevention and investigation program" (of
 11 the department of justice), or "program", as appropriate.
 12 The code commissioner shall also conform internal references
 13 and grammar to these changes.

14 Section 2. Section 2-15-1519, MCA, is amended to read:
 15 "2-15-1519. Fire services training advisory council.
 16 (1) The board of regents shall appoint a fire services
 17 training advisory council to work with the director of the
 18 fire services training school. The membership of the council
 19 shall include the following:

- 20 (a) a fire chief;
 21 (b) a volunteer firefighter;
 22 (c) a paid firefighter;
 23 (d) a fire service instructor;
 24 (e) a person involved in fire prevention;
 25 (f) a representative of the insurance industry; and

1 (g) a professional educator.

2 (2) The board shall solicit and consider the
3 recommendations of appropriate organizations and
4 associations of fire service personnel in making
5 appointments under subsection (1) of this section.

6 (3) Members appointed shall serve for a 4-year term and
7 may be removed for cause. If a vacancy occurs, a member
8 shall be appointed to fill the unexpired term. A member may
9 be reappointed.

10 (4) ~~The state fire marshal~~ A representative of the
11 state fire prevention and investigation program of the
12 department of justice, a fire control officer designated by
13 the commissioner of state lands, and the director of the
14 fire services training school are ex officio members of the
15 council."

16 **Section 3.** Section 2-15-2005, MCA, is amended to read:

17 "2-15-2005. State fire marshal prevention and
18 investigation program -- advisory council. (1) There is a
19 state fire marshal prevention and investigation program in
20 the department of justice ~~who is~~ and under the supervision
21 and control of the attorney general.

22 (2) A person appointed to administer the fire
23 prevention and investigation program shall represent the
24 state of Montana as the state fire marshal and must be a
25 person qualified by experience, training, and high

1 professional competence in matters of fire service and
2 safety. state fire marshal shall have:

3 (a) ~~at least 10 years of progressively responsible~~
4 ~~experience in fire protection;~~

5 (b) ~~a 2-year associate degree in fire protection~~
6 ~~engineering from a recognized institution of higher~~
7 ~~education and 2 years' experience in fire protection; or~~

8 (c) ~~a degree from a recognized institution of higher~~
9 ~~education in fire protection engineering or fire protection~~
10 ~~technology;~~

11 (3) The attorney general shall create a fire marshal
12 prevention and investigation advisory council in accordance
13 with procedures provided in 2-15-122."

14 **Section 4.** Section 2-15-2108, MCA, is amended to read:

15 "2-15-2108. **Petroleum tank release compensation board.**

16 (1) There is a petroleum tank release compensation board.

17 (2) The board consists of seven members appointed by
18 the governor as follows:

19 (a) the director of the department of health and
20 environmental sciences or his representative;

21 (b) ~~the state fire marshal or his representative a~~
22 representative of the state fire prevention and
23 investigation program of the department of justice;

24 (c) a representative of the petroleum services
25 industry;

- 1 (d) a representative of independent petroleum marketers
 2 and chain retailers;
 3 (e) a representative of the general public;
 4 (f) a representative of service station dealers; and
 5 (g) a representative of the insurance industry.
 6 (3) The board shall elect a chairman.
 7 (4) The term of membership is 3 years.
 8 (5) Members shall serve without pay, but are entitled
 9 to reimbursement for travel, meals, and lodging while
 10 engaged in board business, as provided in 2-18-501 through
 11 2-18-503."

12 **Section 5.** Section 50-3-101, MCA, is amended to read:
 13 "50-3-101. ~~Fire--marshal--defined~~ Definitions. In this
 14 chapter, "department" means the department of justice and
 15 "fire marshal prevention and investigation program" or
 16 "state-fire-marshal" means the state fire marshal prevention
 17 and investigation program of the department of justice
 18 provided for in 2-15-2005."

19 **Section 6.** Section 50-3-102, MCA, is amended to read:
 20 "50-3-102. Powers and duties of department regarding
 21 state fire marshal prevention and investigation. (1) For the
 22 purpose of reducing the state's fire loss, the state-fire
 23 marshal department shall:
 24 ~~(a)--make-at-least-one-inspection-a-year-of--each--state~~
 25 ~~institution--and--submit--a--copy--of--the--report--to--the~~

1 ~~department-of-institutions-with-recommendations-in-regard-to~~
 2 ~~fire-prevention,-fire-protection,-and-public-safety;~~
 3 ~~(b)--make-at-least-one-inspection-a-year-of--each--unit--of~~
 4 ~~the-Montana-university-system--and--submit--a--copy--of--the~~
 5 ~~report---to---the---commissioner---of---higher---education---with~~
 6 ~~recommendations--in--regard---to---fire---prevention,-fire~~
 7 ~~protection,-and-public-safety;~~
 8 ~~(c)--inspect--other--state-owned--buildings-and-submit-a~~
 9 ~~report---to---the---department---of---administration---with~~
 10 ~~recommendations---in---regard---to---fire---prevention,-fire~~
 11 ~~protection,-and-public-safety;~~
 12 (A) INSPECT EACH UNIT OF THE MONTANA UNIVERSITY SYSTEM
 13 AND OTHER STATE BUILDINGS, INCLUDING STATE INSTITUTIONS, AS
 14 OFTEN AS ITS BUDGET AND OTHER INSPECTION DUTIES ALLOW, BUT
 15 NO MORE FREQUENTLY THAN ONCE EACH YEAR UNLESS REQUESTED BY
 16 THE COMMISSIONER OF HIGHER EDUCATION FOR BUILDINGS IN THE
 17 UNIVERSITY SYSTEM, BY THE DEPARTMENT OF INSTITUTIONS FOR
 18 STATE INSTITUTIONS, OR BY THE DEPARTMENT OF ADMINISTRATION
 19 FOR ALL OTHER STATE BUILDINGS. A COPY OF THE INSPECTION
 20 REPORT FOR UNITS OF THE UNIVERSITY SYSTEM MUST BE GIVEN TO
 21 THE COMMISSIONER OF HIGHER EDUCATION, A COPY OF THE
 22 INSPECTION REPORT FOR STATE INSTITUTIONS MUST BE GIVEN TO
 23 THE DEPARTMENT OF INSTITUTIONS, AND A COPY OF THE INSPECTION
 24 REPORT FOR ALL OTHER STATE BUILDINGS MUST BE GIVEN TO THE
 25 DEPARTMENT OF ADMINISTRATION. THE DEPARTMENT OF JUSTICE

1 SHALL ADVISE THE COMMISSIONER OF HIGHER EDUCATION AND THE
 2 DIRECTORS OF THE DEPARTMENTS OF INSTITUTIONS AND
 3 ADMINISTRATION CONCERNING FIRE PREVENTION, FIRE PROTECTION,
 4 AND PUBLIC SAFETY WHEN IT DISTRIBUTES THE REPORTS.

5 ~~(c)(d)(A)(B)~~ inspect ~~STATE-OWNED--AND--OTHER~~ public, ~~1~~
 6 ~~BUILDINGS--AND~~ business, ~~7~~, or industrial buildings, ~~as~~
 7 ~~provided in chapter 61,~~ and require conformance to law and
 8 rules promulgated under the provisions of this chapter;

9 ~~(d)(e)(B)(C)~~ assist local fire and law enforcement
 10 authorities in arson investigations and may initiate or
 11 supervise such these investigations when, in his its
 12 judgment, the initiation or supervision is necessary;

13 ~~(e)--review--all--training--programs--on--investigation--of~~
 14 ~~accidental--and--incendiary--fires;~~

15 ~~(f)(e)(D)~~ provide fire prevention and fire protection
 16 information to public officials and the general public;

17 ~~(g)--encourage--and--assist--local--fire--authorities--in--fire~~
 18 ~~prevention--programs--and--adopt--standards--and--implement--a~~
 19 ~~program--to--encourage--fire--departments--to--meet--such~~
 20 ~~standards;~~

21 ~~(h)(g)(B)(E)~~ be serve as the state entity primarily
 22 responsible for promoting fire safety at the state level and
 23 ~~to represent the state in structural fire matters;~~

24 ~~(i)(h)(B)(F)~~ encourage coordination of all services and
 25 agencies in structural fire prevention matters to reduce

1 duplication and fill voids in services;

2 ~~(j)(i)(F)(G)~~ establish rules concerning
 3 responsibilities and procedures to be followed when there is
 4 a threat of explosive material in a building housing state
 5 offices; and

6 ~~(k)(j)(G)(H)~~ keep in his office a record of all fires
 7 occurring in the state, the origin of the fires, and all
 8 facts, statistics, and circumstances relating thereto which
 9 to the fires that have been determined by investigations
 10 under the provisions of chapter 63, ~~of this title; and,~~
 11 except Except for statements of witnesses given during an
 12 investigation, and information that may be held in
 13 confidence under 50-63-403, and criminal justice information
 14 subject to restrictions on dissemination in accordance with
 15 Title 44, chapter 5, the record shall must be open at all
 16 times to public inspection; and

17 ~~(i)--make--an--annual--report--to--the--attorney--general~~
 18 ~~containing--a--detailed--statement--of--his--official--action--and~~
 19 ~~the--transactions--of--his--department--and--the--attorney--general~~
 20 ~~shall--in--turn--submit--the--report--to--the--governor--with--such~~
 21 ~~recommendations--and--comments--thereon--as--he--considers~~
 22 ~~necessary.~~

23 (2) The state fire marshal department may adopt rules
 24 necessary for safeguarding life and property from the
 25 hazards of fire and carrying into effect the fire prevention

1 laws of this state.

2 (3) The ~~state-fire-marshai~~ department shall adopt rules
3 based on nationally recognized standards necessary for
4 safeguarding life and property from the hazards associated
5 with the manufacture, transportation, storage, sale, and use
6 of explosive materials.

7 (4) If necessary to safeguard life and property under
8 rules promulgated pursuant to this section, the ~~state-fire~~
9 ~~marshai~~ department may maintain an action to enjoin the use
10 of all or a portion of a building or restrain a specific
11 activity until there is compliance with the rules."

12 **Section 7.** Section 50-3-103, MCA, is amended to read:

13 **"50-3-103.** Rules promulgated by ~~state--fire--marshai~~
14 department. (1) Rules promulgated by the ~~state-fire--marshai~~
15 department by authority of 50-3-102 shall must be reasonable
16 and calculated to effect the purposes of this chapter. They
17 shall must include but are not be limited to requirements
18 for design, construction, installation, operation, storage,
19 handling, maintenance, or use of structural requirements for
20 various types of construction; building restrictions within
21 congested districts; exit facilities from structures; fire
22 extinguishers, fire alarm systems, and fire extinguishing
23 systems; fire emergency drills; flue and chimney
24 construction; heating devices; electrical wiring and
25 equipment; air conditioning, ventilating, and other duct

1 systems; refrigeration systems; flammable liquids; oil and
2 gas wells; application of flammable finishes; explosives,
3 acetylene, liquefied petroleum gas, and similar products;
4 calcium carbide and acetylene generators; flammable motion
5 picture film; combustible fibers; hazardous chemicals or
6 materials; rubbish; ~~open-flame~~ open-flame devices; parking
7 of vehicles; dust explosions; lightning protection; storage
8 of smokeless powder and small arms primers; and other
9 special fire hazards.

10 (2) If rules relate to building and equipment standards
11 covered by the state or a municipal building code, the rules
12 are effective upon approval of the department of commerce
13 and filing with the secretary of state.

14 (3) ~~Standards---of---the---national---fire---protection~~
15 ~~association,--United-States-bureau-of-standards,--and-American~~
16 ~~insurance-association~~ Federal or other nationally recognized
17 standards for fire protection may be adopted in whole or in
18 part by reference.

19 (4) Rules shall must be adopted as prescribed in the
20 Montana Administrative Procedure Act.

21 (5) Any A person violating any rule made under the
22 provisions of this part shall--be is guilty of a
23 misdemeanor."

24 **Section 8.** Section 50-3-106, MCA, is amended to read:

25 **"50-3-106.** Appointment of special deputy--state--fire

1 marshals fire inspectors. (1) ~~The state fire marshal may~~
 2 ~~appoint special deputy state fire marshals throughout the~~
 3 ~~state and define their duties. Special fire inspectors may~~
 4 be appointed to perform any function of the fire prevention
 5 and investigation program.

6 (2) When performing these duties or attending a
 7 training course ~~conducted by the state fire marshal~~ approved
 8 by the department, special deputy ~~fire marshals~~ fire
 9 inspectors may be paid at a rate not to exceed \$56 a day
 10 plus travel expenses as provided for in 2-18-501 through
 11 2-18-503, as amended."

12 **Section 9.** Section 50-39-101, MCA, is amended to read:

13 "50-39-101. Certificate of registration, permit, and
 14 license required. A natural person ~~must~~ shall obtain a
 15 certificate of registration from the ~~state fire marshal~~
 16 department of justice prior to servicing or installing of
 17 fire extinguishers, fire alarm systems, or fire
 18 extinguishing systems. A person or firm ~~must~~ shall obtain
 19 from the ~~fire marshal~~ department a permit to sell or a
 20 license to install fire extinguishers, fire alarm systems,
 21 or fire extinguishing systems prior to engaging in such the
 22 business."

23 **Section 10.** Section 50-39-102, MCA, is amended to read:

24 "50-39-102. Application for certificate, permit, and
 25 license. (1) Applications for licenses, permits, or

1 certificates ~~shall~~ must be made on a form prescribed by the
 2 ~~state fire marshal~~ department of justice.

3 (2) The ~~fire marshal~~ department shall issue a license
 4 to an applicant who submits satisfactory proof that he is
 5 properly equipped and staffed to provide the services to be
 6 licensed and who pays the required fee.

7 (3) The ~~fire marshal~~ department shall issue a
 8 certificate of registration to an applicant who scores a
 9 passing grade on an examination devised by the ~~fire marshal~~
 10 department and who pays the required fee.

11 (4) The ~~fire marshal~~ department shall issue a sales
 12 permit to an applicant who submits the information required
 13 by the ~~fire marshal~~ department on the application form, who
 14 submits satisfactory proof that he deals only in equipment
 15 that meets the standards and regulations of the ~~state fire~~
 16 marshal department, and who pays the required fee."

17 **Section 11.** Section 50-39-103, MCA, is amended to read:

18 "50-39-103. Inspections and examinations authorized.
 19 The ~~state fire marshal~~ department of justice may conduct
 20 inspections, examinations, or hearings prior to the issuance
 21 of licenses, permits, or certificates."

22 **Section 12.** Section 50-39-104, MCA, is amended to read:

23 "50-39-104. Revocations and suspensions authorized. The
 24 ~~state~~ ~~fire marshal~~ department of justice may revoke,
 25 suspend, or refuse to issue a license, permit, or

1 certificate for violation of the provisions of this part or
 2 any rules promulgated by the fire-marshai department under
 3 applicable law."

4 **Section 13.** Section 50-39-105, MCA, is amended to read:
 5 "50-39-105. Fees. (1) The state--fire-marshai-or-his
 6 representative department of justice shall charge a fee, not
 7 to-exceed-a-total-of-\$25, for the inspection and issuance of
 8 licenses, permits, and certificates. The fee may not exceed
 9 \$50 for each license, permit, or certificate issued.

10 (2) All fees collected under this section shall must be
 11 paid into the general-fund fire prevention and investigation
 12 account in the state special revenue fund."

13 ~~Section 14.--Section 50-39-202, MCA, is amended to read:~~

14 ~~"50-39-202.--Fire-marshai prevention-and-investigation~~
 15 ~~program to direct standardization.--The--standardization--of~~
 16 ~~existing--fire--protection--equipment-in-this-state-shall-be~~
 17 ~~arranged-for-and-carried-out-by-or-under--the--direction--of~~
 18 ~~the---state---fire---marshai---of---Montana prevention--and~~
 19 ~~investigation-program-of--the--department--of--justice.--The~~
 20 ~~state--fire-marshai program is authorized to proceed to make~~
 21 ~~such-changes-as-may-be-necessary-to-standardize-all-existing~~
 22 ~~fire-protection-equipment-in-this--state--immediately--after~~
 23 ~~March-17, 1929.--He The-program shall provide such appliances~~
 24 ~~as-are-necessary-for-carrying-on-this-work-and-shall-proceed~~
 25 ~~with---such--standardization--as--rapidly--as--possible--and~~

1 ~~complete-such the work-at-the--earliest--date--circumstances~~
 2 ~~will-permit."~~

3 **Section 14.** Section 50-61-101, MCA, is amended to read:

4 "50-61-101. Purpose of chapter. The purpose and intent
 5 of this chapter is are to provide for the public safety in
 6 case of fire in those occupancies specified in 50-61-103,--to
 7 provide--for--fire--escapes,--fire-fighting--apparatus, fire
 8 alarms, and to provide for inspection of such the buildings
 9 and premises by specified officers."

10 **Section 15.** Section 50-61-102, MCA, is amended to read:

11 "50-61-102. Fire---marshai Department of justice to
 12 administer chapter. (1) The state-fire-marshai department of
 13 justice has general charge and supervision of the
 14 enforcement of this chapter, and the officers enumerated in
 15 50-61-114 shall act under his its general charge and
 16 supervision, shall assist him the department in giving
 17 effect to this chapter, and are subject to his its direction
 18 and the rules adopted under 50-3-102 and 50-3-103 for the
 19 enforcement of 50-61-120 and 50-61-121 and this chapter.

20 (2) Upon its approval of a fire code and a plan for
 21 enforcement of the code filed by a municipality or district,
 22 the department may certify a municipal or district fire
 23 inspection program for local enforcement."

24 **Section 16.** Section 50-61-106, MCA, is amended to read:

25 "50-61-106. Unlawful to obstruct fire escape exit. It

1 ~~shall--be~~ is unlawful to obstruct in any manner whatsoever
2 any fire escape exit, or any hallway, corridor, or
3 entranceway leading to a fire exit, required by the
4 provisions--of--this--chapter--or--hallway,--corridor,--or
5 entranceway--leading-thereto rules adopted by the department
6 of justice."

7 **Section 17.** Section 50-61-114, MCA, is amended to read:

8 "50-61-114. Fire chief and county--~~sheriff~~ fire
9 inspector to make inspections. The chief of the fire
10 department of each municipality or district where when a
11 fire department inspection program is established and--the
12 county--~~sheriff--or-deputy-fire-marshals~~ or a fire inspector
13 of the department of justice where when no fire department
14 inspection program exists shall, for the purpose of
15 examining the premises for violations of this chapter and
16 rules adopted under 50-3-103 for the enforcement of this
17 chapter:

18 (1) shall enter into school buildings at least once
19 each 12 months; and

20 (2) may enter into all other buildings and upon all
21 other premises within their his jurisdiction, according to
22 priority schedules established by the department for
23 conducting inspections of buildings and premises at--~~least~~
24 ~~once-each-10-months."~~

25 **Section 18.** Section 50-61-115, MCA, is amended to read:

1 "50-61-115. Notice of violations. (1) When a building
2 is found which--requires-the-erection--of--fire--escapes--and
3 upon--which--fire-escapes-have-not-been-erected-according-to
4 the-provisions-of--this--chapter--or--if--fire-hoses,--fire
5 extinguishers,--fire-alarms,--or-other-fire-apparatus-is-found
6 to-be-lacking-or-defective-or-not-in-good-working-condition,
7 that is not in compliance with fire safety rules promulgated
8 by the department of justice, the person making the
9 inspection or the state-fire-marshals department shall serve
10 a written notice upon the party whose duty it is to erect
11 the-fire-escapes-or-maintain-such--fire--apparatus maintain
12 the safety of the building.

13 (2) The notice shall must specify the time within which
14 the--fire--escapes--shall--be--erected--or the defective
15 conditions must be remedied, which may not be more than 90
16 days.

17 (3) The notice is served if delivered to the person to
18 be notified, if left with any adult person at the usual
19 residence or place of business of the person to be notified,
20 or if deposited in the post office directed to the ~~last~~
21 known last-known address of the person to be notified.
22 Whenever buildings are managed and controlled by a board of
23 trustees, board of commissioners, or other governing body,
24 the notice is served if delivered to the president,
25 secretary, or treasurer of the board of trustees, board of

1 commissioners, or other governing body."

2 **Section 19.** Section 50-61-117, MCA, is amended to read:

3 "~~50-61-117. Duty--of-fire-marshal-to-file-complaints-of~~
4 ~~violations-----duty-of-county-attorney-to-prosecute~~
5 ~~complaints~~Prosecution of violations. It shall-be is the duty
6 of the ~~state-fire-marshal-or-any-person-authorized-to-act-in~~
7 ~~his--stead~~ department of justice or other authorized officer
8 ~~to file-complaint-for~~ furnish the county attorney with all
9 evidence of violations of the-provisions-of-this-chapter-in
10 any-court-of-competent-jurisdiction rules adopted by the
11 department within the county where said violations occur,
12 and, if the evidence discloses the fact that a violation has
13 occurred, it shall-be is the duty of the county attorney of
14 such the county to ~~forthwith~~ prosecute ~~all-such-complaints~~
15 ~~so-filed~~ the person committing the violation in the same
16 manner as in other cases."

17 **Section 20.** Section 50-61-118, MCA, is amended to read:

18 "~~50-61-118. Injunction authorized. In addition to the~~
19 ~~other remedies and penalties herein provided in this~~
20 ~~chapter, upon the failure of any of the parties charged with~~
21 ~~the duty to erect-fire-escapes-or-to-install-and-maintain~~
22 ~~fire-alarms-or-fire-extinguishers-or--other--fire--apparatus~~
23 maintain the safety of the building premises in accordance
24 ~~with this--chapter~~ rules adopted by the department of
25 justice, the attorney general of the state or any the county

1 attorney of the county where the building is located shall
2 bring an action against the owner, lessee, and occupants of
3 the building for an injunction enjoining the further
4 occupancy of it until it is in compliance with this chapter.
5 The action may be brought in the county where such the
6 building is located."

7 **Section 21.** Section 50-61-121, MCA, is amended to read:

8 "~~50-61-121. Restrictions on storage of smokeless powder~~
9 ~~and small arms primers. (1) A retail establishment may stock~~
10 ~~up to 400 pounds of smokeless powder on the premises of a~~
11 ~~building with a sprinkler system or 200 pounds on the~~
12 ~~premises of a building without a sprinkler system if storage~~
13 ~~of this stock conforms to the following conditions:~~

14 (a) no more than 20 pounds are on display in a customer
15 service area;

16 (b) the storage area is clearly posted as off limits to
17 customers;

18 (c) the storage area is clearly posted prohibiting
19 smoking or any open flame or sparks; and

20 (d) the storage area is a room designed and constructed
21 to restrict smoke travel that is separate from the customer
22 service area, that has a self-closing entrance door, and
23 that conforms to one of the following:

24 (i) It is constructed of material sufficient to achieve
25 a 1-hour fire resistant-rated barrier between the storage

1 area and the customer service area. The smokeless powder
2 must be stored in cabinets made of wood or equivalent
3 material that is at least 1 inch thick, and each cabinet
4 must contain no more than 200 pounds of smokeless powder.
5 Cabinets must be separated by 25 feet.

6 (ii) It is protected by a fire suppression sprinkler
7 system approved by the state fire ~~marshal~~ prevention and
8 investigation program of the department of justice or a fire
9 marshal of the local jurisdiction, and the storage area has
10 cabinets as provided for in subsection (1)(d)(i).

11 (iii) Smokeless powder stock is contained in a cabinet
12 with casters and constructed of wood at least 1 inch thick
13 that is covered on all sides with 5/8-inch sheetrock.

14 (2) A retail establishment may stock up to 250,000
15 small arms primers if storage of this stock conforms to the
16 following conditions:

17 (a) no more than 20,000 primers in a building with a
18 sprinkler system or 10,000 primers in a building without a
19 sprinkler system are on display in a customer service area;

20 (b) the storage area must conform to the conditions
21 imposed in subsections (1)(a) through (1)(d), except that no
22 more than 125,000 small arms primers may be stored in one
23 cabinet, and the minimum required separation between
24 cabinets is 15 feet; and

25 (c) small arms primers are retained in packaging

1 approved by the U.S. department of transportation."

2 **Section 22.** Section 50-62-101, MCA, is amended to read:

3 "50-62-101. Entering of buildings for purpose of
4 examination authorized. The ~~state fire marshal, his deputies~~
5 ~~and subordinates, officers of the state fire prevention and~~
6 ~~investigation program of the department of justice or the~~
7 chief of the fire department of each municipality or
8 district where a fire department is established, ~~or the~~
9 ~~county sheriff where no fire department exists~~ at all
10 reasonable hours may, as authorized by law, enter into all
11 buildings and upon all premises within their his
12 jurisdiction for the purpose of determining whether the
13 building or premise conforms to laws and rules relating to
14 fire hazards and fire safety."

15 **Section 23.** Section 50-62-102, MCA, is amended to read:

16 "50-62-102. Structures or conditions creating fire
17 hazard a public nuisance -- order to remedy. (1) Any If any
18 building or other structure which that for want of proper
19 repair; by reason of age, dilapidated condition, defective
20 or poorly installed wiring and equipment, defective
21 chimneys, defective gas connections, defective heating
22 apparatus, or the existence of any combustible materials,
23 flammable conditions, or other fire hazards; or for any
24 other cause or reason is especially liable to fire and which
25 is dangerous to the safety of the building premises or to

1 the public or is so situated as to endanger other buildings
 2 and property in the vicinity is hereby declared, the state
 3 fire prevention and investigation program of the department
 4 of justice or other officer may declare the building or
 5 other structure to be a public nuisance and proceed
 6 according to 50-62-103 or subsection (2) of this section.

7 (2) If the state fire prevention and investigation
 8 program, an officer of the program, or an officer mentioned
 9 in 50-62-101 determines that a building or other structure
 10 constitutes a public nuisance for any reason identified in
 11 subsection (1), the department or other officer shall order
 12 the hazardous condition or material to be removed or
 13 remedied. The order must be in writing and directed
 14 generally to the owner, lessee, agent, or occupant of the
 15 building or structure.

16 (3) If the hazardous condition or material can be
 17 removed or remedied within a period of 24 hours, the order
 18 must contain notice that the condition or material must be
 19 remedied or removed. The owner, lessee, agent, or occupant
 20 upon whom the notice is served who fails to comply with the
 21 notice is liable for any expenses incurred in the removal or
 22 remedying of the hazardous condition or material by the fire
 23 prevention and investigation program or other officer
 24 mentioned in 50-62-101."

25 **Section 24.** Section 50-62-103, MCA, is amended to read:

1 **"50-62-103. Service of order to repair hazardous**
 2 **condition or demolish structure. (1) If the state--fire**
 3 **marshal,--a--deputy--state-fire-marshal, fire prevention and**
 4 **investigation program of the department of justice or any**
 5 **officer mentioned in 50-62-101, upon an examination or**
 6 **inspection, finds determines that a building or other**
 7 **structure which-for-want-of-proper-repair-or--by--reason--of**
 8 **age-and-dilapidated-condition,-defective-or-poorly-installed**
 9 **electric--wiring-or-equipment,-defective-chimneys,-defective**
 10 **gas-connections-or-defective-heating-apparatus--or--for--any**
 11 **other-cause-or-reason-is-especially-liable-to-fire-and-is-so**
 12 **situated--as--to-endanger-other-buildings-or-property-in-the**
 13 **vicinity,-he constitutes a public nuisance for any reason**
 14 **identified in 50-62-102 and the condition cannot be removed**
 15 **or remedied within 24 hours, the program or officer shall**
 16 **order the structure hazardous condition to be repaired, or**
 17 **the structure to be torn down, or demolished and all**
 18 **materials-removed-and-all dangerous conditions remedied.**

19 (2) The order shall be in writing, shall recite the
 20 grounds therefor, and shall be filed in the office of the
 21 clerk of the district court of the county in which the
 22 building or structure ordered to be altered, repaired, or
 23 demolished is situated, and thereupon all further
 24 proceedings for the enforcement thereof shall be had in that
 25 court.

1 (3) A copy of the order filed as aforesaid, together
 2 with a written notice that it has been filed and will be put
 3 in force unless the owner, occupant, or tenant shall file
 4 with the clerk of the court his objections or answer thereto
 5 within the time specified in 50-62-104, shall be served upon
 6 the owner and any purchaser under contract for deed of the
 7 building or structure directed to be altered, repaired, or
 8 demolished. If there is a tenant occupying the building,
 9 service shall also be made upon him. Service shall be made
 10 upon the owner and occupant, if there is one, personally
 11 either within or without the state.

12 (4) If the whereabouts of the owner or any purchaser
 13 under contract for deed is unknown and cannot be
 14 ascertained by the state-fire-marshai department of justice
 15 by the exercise of reasonable diligence, then upon his
 16 filing in the office of the clerk of the district court his
 17 an affidavit to this effect, service of the notice upon the
 18 owner or any purchaser under contract for deed may be made
 19 by the clerk of the district court by publication of it once
 20 in each week for 3 successive weeks in a newspaper printed
 21 and published in the county in which the building or
 22 structure is located and by posting a copy thereof in a
 23 conspicuous place upon the building or structure, and the
 24 service so made is complete upon the expiration of the
 25 publication period. Proof of service of the notice shall be

1 filed in the office of the clerk of the district court
 2 within 5 days after the service thereof."

3 **Section 25.** Section 50-62-104, MCA, is amended to read:

4 **"50-62-104. Answer of owner or occupant.** (1) The owner
 5 of any building so condemned or any occupant or lessee upon
 6 whom such notice or order shall be served, within 20 days
 7 from the date of such service, may file with the clerk of
 8 the district court and serve upon the ~~said-state-fire~~
 9 ~~marshai,-a-deputy-state-fire-marshai,~~ department of justice
 10 or any officer mentioned in 50-62-101 written objections to
 11 said order in the form of a verified answer denying the
 12 existence of any of the facts therein cited which he desires
 13 to controvert.

14 (2) If an answer be filed and served, the court shall
 15 hear and determine the issues so raised and give judgment
 16 thereon."

17 **Section 26.** Section 50-62-105, MCA, is amended to read:

18 **"50-62-105. Default judgment.** If no answer is so filed
 19 and served, the owner and all other persons in interest
 20 shall be deemed to be in default, and thereupon the court
 21 shall affirm the order of condemnation and direct the ~~state~~
 22 ~~fire--marshai~~ department of justice or other officer to
 23 proceed with the enforcement thereof."

24 **Section 27.** Section 50-62-106, MCA, is amended to read:

25 **"50-62-106. Hearing and judgment.** (1) The court, upon

1 application of the ~~state--fire-marshals, deputy-state-fire~~
 2 ~~marshals, department of justice~~ or any officer mentioned in
 3 50-62-101, shall make its order fixing a time and place for
 4 such hearing, which time shall be within 20 days from the
 5 date of the filing of the answer or as soon thereafter as
 6 the matter may be heard.

7 (2) If, upon such trial the order shall be sustained,
 8 judgment shall be given accordingly and a time shall be
 9 fixed within which the building or structure shall be
 10 altered, destroyed, or repaired in compliance with such
 11 order, but otherwise the court shall annul or set aside the
 12 order of condemnation."

13 **Section 28.** Section 50-62-107, MCA, is amended to read:

14 "50-62-107. Proceedings on failure to comply with
 15 order. (1) If the owner or other party in interest shall
 16 fail to comply with the order of condemnation of a building
 17 or structure within the time fixed by the court in case a
 18 trial is had therein, then the ~~state-fire-marshals~~ department
 19 of justice or any other officer authorized in 50-62-101 may
 20 proceed to cause such building or structure to be altered,
 21 repaired, or demolished in accordance with the directions
 22 contained in such order.

23 (2) Where a building or structure is demolished in
 24 accordance with such order, the ~~state--fire--marshals~~
 25 department or any other officer authorized in 50-62-101 may

1 sell or dispose of the salvaged materials therefrom at
 2 public auction upon 5 days' posted notice. ~~This--person~~ The
 3 department or other officer shall keep an accurate account
 4 of the expenses incurred in carrying out the order and shall
 5 credit thereon the proceeds of such salvage sale, if any,
 6 and shall report ~~his-action~~ thereon with a statement of said
 7 expenses or the balance thereof, the expense incurred by
 8 him, and the amount, if any, received from such salvage sale
 9 to the court for approval and allowance. The court shall
 10 examine, correct if necessary, and allow said expense
 11 account, and said amount so allowed shall constitute a lien
 12 against the real estate on which said building or structure
 13 is or was situated. If the amount thereof is not paid by the
 14 owner or other party in interest within 3 months after the
 15 account has been examined and approved by the court, the
 16 real estate upon which said building or structure is or was
 17 situated shall be sold under proper order of court by the
 18 sheriff of the county in which the same is situated in the
 19 manner provided by law for the sale of real estate upon
 20 execution, and the proceeds of said sale shall be paid into
 21 the treasury of the governmental unit which incurred the
 22 expenses. If the amount received as salvage or on sale shall
 23 exceed the expense incurred by the governmental unit, the
 24 court shall direct the payment of the surplus to those
 25 parties with encumbrances, mortgages, or liens on the real

1 estate in order of their priority and any surplus thereafter
2 to the owner or the payment of the same into court for their
3 use and benefit."

4 **Section 29.** Section 50-62-110, MCA, is amended to read:

5 "50-62-110. Appeal to state-fire-marshai department of
6 justice. If the owner or occupant deems himself aggrieved by
7 an order of an officer under this chapter, he may appeal to
8 the state-fire-marshai department of justice within 24 hours
9 and the cause of the complaint shall at once be investigated
10 by direction of the state-fire--marshai department. Unless
11 such order is revoked by the state-fire-marshai department,
12 it shall remain in force and forthwith be complied with by
13 such owner or occupant."

14 **Section 30.** Section 50-62-111, MCA, is amended to read:

15 "50-62-111. Penalty for failure to comply with order to
16 correct. An owner or occupant of buildings or premises who
17 fails to comply with the orders of the authorities named in
18 this chapter shall be guilty of a misdemeanor and shall be
19 fined not less than \$10 or more than \$50 \$500 for each day's
20 neglect."

21 **Section 31.** Section 50-63-101, MCA, is amended to read:

22 "50-63-101. Examination of premises where fire occurred
23 authorized. In the performance of the duties imposed by the
24 provisions of this chapter, the-state-fire-marshai-and-each
25 of-his-subordinates-at-all-times-of-day-or-night officers of

1 the department of justice may, as authorized by law, enter
2 upon and examine any building or premises where a fire has
3 occurred and other buildings and premises adjoining or near
4 thereto."

5 **Section 32.** Section 50-63-201, MCA, is amended to read:

6 "50-63-201. Cause of fire to be investigated. The
7 cause, origin, and circumstances of each fire by which
8 property has been destroyed or damaged shall be investigated
9 to determine the exact cause and circumstances. The state
10 fire--marshai department of justice may superintend and
11 direct the investigation if-he-deems-it-necessary."

12 **Section 33.** Section 50-63-203, MCA, is amended to read:

13 "50-63-203. Reports to be filed with fire--marshai
14 department of justice. (1) If it appears that the fire was
15 of suspicious origin, or if there was a loss of human life,
16 or if it is determined that a criminal investigation is
17 necessary, the official responsible for the investigation
18 shall notify the state-fire-marshai department of justice
19 and the appropriate law enforcement agency within 24 hours
20 and shall file a written report of the cause with the state
21 fire-marshai department within 10 days.

22 (2) If the property was insured, as soon as any
23 adjustment has been made, a person representing the
24 insurance company shall notify the state--fire--marshai
25 department of the amount of adjustment and the apparent

1 cause and circumstances of the fire on forms furnished by
2 the ~~state-fire-marshai~~ department.

3 (3) Each official responsible for investigating fires
4 shall file a fire incident report on each ~~and-every~~ fire
5 with the ~~state-fire-marshai~~ department. Reports shall be on
6 forms and shall contain information prescribed by the ~~state~~
7 ~~fire-marshai~~ department. These reports shall be sent to the
8 ~~state--fire--marshai~~ department on a ~~weekly~~ monthly basis or
9 at intervals determined necessary by the department."

10 **Section 34.** Section 52-2-733, MCA, is amended to read:

11 "**52-2-733. Periodic visits to facilities by department**
12 **-- investigations -- consultation with licensees and**
13 **registrants.** (1) The department or its authorized
14 representative shall make periodic visits to all licensed
15 day-care centers to ensure that minimum standards are
16 maintained.

17 (2) The department may investigate and inspect the
18 conditions and qualifications of any day-care center, group
19 day-care home, or family day-care home seeking or holding a
20 license or registration certificate under the provisions of
21 this part.

22 (3) The department must visit and inspect at least 20%
23 of all registered family day-care homes and group day-care
24 homes in each of the governor's planning regions annually.

25 (4) The department shall make annual unannounced visits

1 to day-care centers.

2 (5) Upon request of the department, the department of
3 health and environmental sciences or the ~~state fire marshai~~
4 ~~or-his-designee~~ prevention and investigation program of the
5 department of justice shall inspect any day care facility
6 for which a license or registration certificate is applied
7 for or issued and shall report its findings to the
8 department.

9 (6) Upon request, the department shall give
10 consultation to every licensee and registrant who desires to
11 upgrade the services of his program.

12 (7) Nothing in this section may be construed to require
13 the department to conduct an inspection of each day-care
14 facility applying for a registration certificate under the
15 provisions of this part."

16 **Section 35.** Section 52-2-734, MCA, is amended to read:

17 "**52-2-734. Fire safety -- certification required.** (1)
18 The ~~state fire marshai~~ prevention and investigation program
19 of the department of justice shall adopt and enforce rules
20 for the protection of children in day-care centers from fire
21 hazards and arrange for such inspections and investigations
22 as it considers necessary.

23 (2) Before a license can be issued to operate a
24 day-care center, each applicant shall submit to the
25 department a certificate of approval from the state fire

1 marshal prevention and investigation program of the
 2 department of justice ~~or-his-designee~~, indicating that fire
 3 safety rules have been met."

4 **Section 36.** Section 50-78-301, MCA, is amended to read:

5 **"50-78-301. Emergency and community information.** (1) An
 6 employer shall comply with the provisions of the federal
 7 Emergency Planning and Community Right-to-Know Act of 1986
 8 or be subject to the enforcement provisions thereof.

9 (2) The local fire chief must be permitted onsite
 10 inspection of hazardous chemicals in any workplace,
 11 including workplaces under the control of a state agency,
 12 for the purposes of planning fire department activities in
 13 case of an emergency and reviewing compliance with this
 14 chapter. For a workplace that employs fire safety personnel,
 15 the local fire chief shall consult with the responsible fire
 16 safety official to clarify respective roles and response
 17 procedures in the event of an emergency.

18 (3) As a result of an inspection, the local fire chief
 19 may note and report for possible action by the county
 20 attorney or other appropriate law enforcement official any
 21 violation by an employer of a provision of this chapter or
 22 any other law pertaining to hazardous chemicals or fire
 23 safety.

24 (4) The local fire chief shall consult at least
 25 annually on safety and emergency considerations with each

1 person responsible for the operation of any research,
 2 educational, or testing laboratory workplace. The
 3 consultation may result in recommendations ~~or,--under--the~~
 4 provisions--of-50-62-102, orders OR, UNDER THE PROVISIONS OF
 5 50-62-102, ORDERS by the fire chief to be implemented by the
 6 laboratory operator to enhance public safety, to reduce the
 7 likelihood of emergency incidents, or to improve emergency
 8 response in the event of an accident. The person responsible
 9 for the operation of the laboratory shall contact the local
 10 fire chief at any time there is a significant change in the
 11 location or nature of the hazardous chemicals in the
 12 workplace, initiation of any new and potentially dangerous
 13 method of processing or reacting hazardous chemicals, or any
 14 other operational change affecting emergency response
 15 considerations."

16 **NEW SECTION. Section 37. Repealer.** Sections 50-3-104,
 17 50-3-105, 50-3-107, 50-3-108, 50-39-201, 50-39-202,
 18 50-39-203, 50-61-104, 50-61-105, 50-61-107, 50-61-108,
 19 50-61-109, 50-61-110, 50-61-111, 50-62-108, 50-62-109,
 20 50-63-301, 50-63-302, 50-63-303, 50-63-304, 50-63-305,
 21 50-63-306, 50-63-307, and 50-63-308, MCA, are repealed.

22 **NEW SECTION. Section 38. Coordination instruction.** If
 23 House Bill No. 809 is not passed and approved creating a
 24 fire prevention and investigation account in the state
 25 special revenue fund, then [section 13(2) of this act] is

HB 0896/03

1 void.

2 NEW SECTION. **Section 39.** Effective date. [This act] is
3 effective on passage and approval.

-End-