

1 HB BILL NO. 68  
 2 INTRODUCED BY Butcher, Robb, Swartz  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING BARRIERS TO  
 5 MORE EFFICIENT DELIVERY OF FOREST FIRE PROTECTION SERVICES  
 6 TO MONTANA'S FOREST AND FARM RESOURCES BY SIMPLIFYING THE  
 7 FOREST FIRE ASSESSMENT SYSTEM, EXPANDING THE RESPONSIBILITY  
 8 AND AUTHORITY OF COUNTIES IN PROVIDING PROTECTION FOR FOREST  
 9 AND FARM RESOURCES, AND CLARIFYING STATUTES RELATING TO  
 10 FIREWARDENS; AMENDING SECTIONS 28-103, 28-105, 28-106,  
 11 28-109, 28-110, 28-111, 28-114, 28-117, 28-118, 28-122,  
 12 28-129, 28-601, 28-602, 28-603, 81-1411, 81-1412, AND  
 13 81-1415, R.C.M. 1947; AND REPEALING SECTIONS 28-125, 28-128,  
 14 AND 28-604, R.C.M. 1947."

15  
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 Section 1. Section 28-103, R.C.M. 1947, is amended to  
 18 read as follows:

19 "28-103. Definitions. Unless the context requires  
 20 otherwise, in this chapter:

21 (1) "Forest land" means land which has enough timber,  
 22 standing or down, slash, or brush, to constitute in the  
 23 judgment of the board department a fire menace to life or  
 24 property; grassland and agricultural areas are included when  
 25 those areas are intermingled with or contiguous to areas of

1 forest land.

2 (2) "Lands" for conservation purposes means all forest  
 3 lands within this state which are officially classified by  
 4 the board department as forest lands ~~in accordance with~~  
 5 ~~section 28-104-(b) under 28-106.~~

6 (3) "Forest fire" means a fire burning uncontrolled on  
 7 forest lands.

8 (4) "Organized forest fire protection district" means  
 9 a definite forest land area, the boundaries of which are  
 10 fixed, and wherein forest fire protection is provided  
 11 through the medium of an agency recognized by the board.

12 (5) "Recognized agency" means an agency representing  
 13 ~~owners of forest lands in an organized forest fire~~  
 14 ~~protection district~~ organized for the purpose of providing  
 15 forest fire protection ~~in the district~~ and recognized by the  
 16 board as giving adequate fire protection to forest lands in  
 17 accordance with rules adopted by the board. ~~A public agency~~  
 18 ~~administering and protecting forest lands may also be~~  
 19 ~~recognized by the board as such an agency.~~

20 (6) "Forest fire season" means the period of each year  
 21 beginning on May ~~first~~ 1 and ending on September ~~thirtieth~~  
 22 30, inclusive; however, in the event of excessive or great  
 23 fire danger, this period may be expanded when in the  
 24 judgment of the department dangerous fire conditions exist.  
 25 When expanded, the department shall give public notice.

1 (7) "Forest fire protection" means the work of  
2 prevention, detection, and suppression of forest fires and  
3 includes training required to perform those functions.

4 ~~(8) "Protection zone" means a broad area within which~~  
5 ~~the forest fire protection costs are approximately the same.~~  
6 ~~Protection zones shall be designated by the department with~~  
7 ~~the approval of the board.~~

8 ~~(9)(a)~~ "Conservation" means the protection and wise  
9 use of forest, forest range, forest water, and forest soil  
10 resources in keeping with the common welfare of the people  
11 of this state.

12 ~~(10)(a)~~ "Owner" means the person, firm, association,  
13 or corporation having the actual, beneficial ownership of  
14 forest land, or timber, other than an easement, right-of-way  
15 right-of-way, or mineral reservation.

16 ~~(11)(a)~~ "Board" means the board of natural resources  
17 and conservation, provided for in section 82A-1509.

18 ~~(12)(a)~~ "Department" means the department of natural  
19 resources and conservation, provided for in Title 82A,  
20 chapter 15."

21 Section 2. Section 28-105, R.C.M. 1947, is amended to  
22 read as follows:

23 "28-105. Powers of board. The board may:

24 ~~(1) Classify the forest land areas of the state for~~  
25 ~~which conservation and fire protection measures are~~

1 ~~reasonably required, and change or modify the classification~~  
2 ~~from time to time as in its judgment is proper.~~

3 ~~(2)(a)~~ Create organized forest fire protection  
4 districts. Before a district is created, the board shall  
5 hold a hearing in any county in which the proposed district  
6 or a part thereof is included and the department shall give  
7 notice of the hearing at least ~~twenty~~ ~~(20)~~ days in advance  
8 thereof to all owners to be affected by the proposed  
9 district. Service of the notice may be made by registered  
10 or certified mail or by publication in a newspaper published  
11 in the county in which the hearing is to be held, and or  
12 if no newspaper is published in the county, then in a  
13 newspaper having a general circulation therein. A forest  
14 fire protection district may not be created unless approved  
15 in writing by vote of not less than ~~fifty-one per cent~~ ~~(51%)~~  
16 of the owners representing at least ~~fifty-one per cent~~ ~~(51%)~~  
17 of the acreage to be involved in the proposed forest fire  
18 protection district.

19 ~~(3)(a)~~ Adopt and enforce through the department  
20 reasonable rules for the purpose of enforcing and  
21 accomplishing the provisions and purposes of this chapter;  
22 however, these rules may not conflict with the powers of the  
23 board of land commissioners."

24 Section 3. Section 28-106, R.C.M. 1947, is amended to  
25 read as follows:

1 "28-106. Powers and duties of department. (1) The  
2 department may give technical and practical advice ~~to--the~~  
3 ~~farmers--of--the--state~~ concerning forest, range, water, and  
4 soil conservation and the establishment and maintenance of  
5 woodlots, windbreaks, ~~and shelters, shelterbelts, and forest~~  
6 ~~fire protection.~~

7 (2) The department may provide for forest fire  
8 protection of any forest lands through the department or by  
9 contract or any other feasible means, in cooperation with  
10 any federal, state, or other recognized agency.

11 ~~(3) The department may classify the forest land areas~~  
12 ~~of the state for which conservation and fire protection~~  
13 ~~measures are reasonably required and change or modify the~~  
14 ~~classification from time to time as in its judgment is~~  
15 ~~proper.~~

16 ~~(3)(4)~~ The department shall cooperate with all public  
17 and other agencies in the development, protection, and  
18 conservation of the forest, range, and water resources in  
19 this state.

20 ~~(5) Nonforest lands and improvements may be protected~~  
21 ~~by the department when requested by the landowner at rates~~  
22 ~~determined by the department.~~

23 ~~(4)(6)~~ The department shall assist the department of  
24 state lands in the protection, economic development, and use  
25 of the state forests and forest land held by the state for

1 the purposes and benefit of the common schools and state  
2 institutions."

3 Section 4. Section 28-109, R.C.M. 1947, is amended to  
4 read as follows:

5 "28-109. Duty of owner of classified forest land. ~~(1)~~  
6 An owner of forest land classified as such by the board  
7 ~~department~~ shall protect against the starting or existence,  
8 and suppress the spread of fire on that land, ~~during--the~~  
9 ~~full--period-of-each-forest-fire-season.~~ This protection and  
10 suppression shall be in conformity with reasonable rules and  
11 standards for adequate fire protection adopted by the board.  
12 If the owner does not provide for the protection and  
13 suppression, the department may provide it, at a cost to the  
14 landowner of not more than ~~sixteen-cents-(16¢) 16 cents~~ per  
15 acre per year ~~for--Class-i-land-and-not-more-than-five--cents~~  
16 ~~(5¢)--per--acre--per--year--for--Class-ii-land;--in--the--event~~  
17 ~~thereof--the and not less than \$6 per owner per year in each~~  
18 ~~protection district. The~~ owner of the land shall pay to the  
19 county treasurer of the county in which the land is situated  
20 the charge for the same approved by the department, in  
21 accordance with this chapter. No other charges may be  
22 assessed those landowners participating, except in cases of  
23 proven negligence on the part of the landowner or his agent.

24 ~~(2)--The-forest-land-of-Montana-shall-be-classified-for~~  
25 ~~protection-and-assessment-purposes-as-follows:~~

1 ~~(a) Class I land forest land primarily suitable for~~  
 2 ~~production of timber and forest land primarily suitable for~~  
 3 ~~joint use for timber production and the grazing of livestock~~  
 4 ~~as a permanent or semipermanent joint use or as a temporary~~  
 5 ~~joint use during the interim between logging and~~  
 6 ~~reforestation.~~

7 ~~(b) Class II land lands primarily suitable for~~  
 8 ~~grazing or other agricultural purposes, which are~~  
 9 ~~intermingled with or contiguous to the land described in~~  
 10 ~~subsection (a) above.~~

11 ~~(c) Class III land lands primarily suitable for~~  
 12 ~~grazing or other agricultural purposes, including structures~~  
 13 ~~and improvements, which are within the forest fire~~  
 14 ~~protection areas but do not meet the detailed definitions of~~  
 15 ~~lands described in subsection (b) above. These lands may~~  
 16 ~~only be listed for payment when requested by the landowner~~  
 17 ~~at rates determined by the department and shall be submitted~~  
 18 ~~to the county assessor for collection and disposition as~~  
 19 ~~provided in section 28-111."~~

20 Section 5. Section 28-110, R.C.M. 1947, is amended to  
 21 read as follows:

22 "28-110. What constitutes compliance. (1) An owner of  
 23 ~~Class I or Class II~~ forest lands within an organized forest  
 24 ~~fire~~ protection district, while a member of, or while  
 25 participating in a recognized agency for forest protection,

1 shall be considered to have fully complied with the  
 2 requirements of section 28-109.

3 (2) In establishing boundaries of organized forest  
 4 fire protection districts covering ~~Class I or Class II~~  
 5 forest lands, the board may for the purpose of  
 6 administrative convenience designate ~~roads, pipelines,~~  
 7 ~~streams or other~~ recognizable landmarks as boundaries."

8 Section 6. Section 28-111, R.C.M. 1947, is amended to  
 9 read as follows:

10 "28-111. Determination of costs of fire protection --  
 11 certification -- tax levy. (1) The department shall prepare  
 12 ~~a fire protection~~ an annual operation assessment plan for  
 13 ~~the approval of the board~~ in which fire protection costs for  
 14 ~~each classification within each protection zone~~ are  
 15 determined. ~~The board shall establish the portion of the~~  
 16 ~~planned fire protection costs to be borne by the state, and~~  
 17 ~~the portion to be borne by the owners of classified forest~~  
 18 ~~lands.~~ The department shall request the legislature to  
 19 appropriate the state's portion of the cost ~~as approved by~~  
 20 ~~the board.~~ After the appropriation is made by the  
 21 legislature, the department shall cause an assessment to be  
 22 made on the owners of classified forest land, as specified  
 23 in section 28-109, sufficient to bring the total amount  
 24 received to the amount specified in the approved plan.

25 (2) On or before the second Tuesday in August of each

1 year, the department shall determine the names of all owners  
 2 who have failed to provide the forest fire protection for  
 3 their lands required by this chapter, together with the  
 4 description of the lands and their acreage, and calculate  
 5 the total amount due to the department from each owner for  
 6 forest fire protection, which amount may not exceed the  
 7 maximum specified in section 28-109.

8 (3) The ~~the~~ department shall certify in writing to the  
 9 county assessor of each county the names of these owners of  
 10 forest lands in his county, together with a description of  
 11 their lands and a statement of the amount found to be due  
 12 and owing by each of the owners to the department for forest  
 13 fire protection.

14 (3) All payments required of owners of forest lands by  
 15 this chapter are assessments for benefits actually received  
 16 by those owners in the protection of their lands and are not  
 17 a tax upon the property of such owners.

18 (4) Upon receiving the certificate from the department  
 19 showing the amount due, the county assessor shall extend the  
 20 amounts upon the county tax rolls covering the lands, and  
 21 the sums shall become obligations of the owner to be paid  
 22 and collected in the same manner and at the same time and  
 23 with like penalties as general state and county taxes upon  
 24 the same property are collected. All sums collected shall be  
 25 promptly transmitted to the state treasury, who shall

1 deposit them deposited in the federal and private grant  
 2 clearance fund for distribution in accordance with section  
 3 28-124."

4 Section 7. Section 28-114, R.C.M. 1947, is amended to  
 5 read as follows:

6 "28-114. Permit for burning required. During the  
 7 forest fire season or an expansion thereof, a person may not  
 8 ignite or set a forest fire, slash burning fire, land  
 9 clearing fire, debris burning fire, or an open fire, within  
 10 forest lands, without an official written permit to ignite  
 11 or set the fire from a firewarden or peace officer  
 12 authorized by the department to issue such permits for  
 13 forest lands the recognized protection agency for that  
 14 protection area. A permit is not required in order to  
 15 build, set, or ignite a campfire within and upon a  
 16 designated improved camping ground, or upon a plot of land  
 17 from which all vegetable and inflammable matter and debris  
 18 have been removed to a point where it may not become ignited  
 19 by the campfire or by sparks therefrom."

20 Section 8. Section 28-117, R.C.M. 1947, is amended to  
 21 read as follows:

22 "28-117. Throwing lighted ~~cigarettes, etc.~~ materials  
 23 -- penalty. ~~Buring the forest fire season, as defined by~~  
 24 ~~this act, any~~ A person who shall throw or place throws or  
 25 places any lighted cigarette, cigar, ashes, or other flaming

1 or glowing substance ~~or any substance or thing~~ that may  
 2 ~~cause a fire in any place where such lighted cigarette~~  
 3 ~~cigarv matchv ashesv or other flaming or glowing substancev~~  
 4 ~~or other substance or thingsv may directly or indirectly~~  
 5 start a fire in or near any forest material, ~~or throw from a~~  
 6 ~~vehicle any lighted cigarettev cigarv ashes or other flaming~~  
 7 ~~or glowing substancev or any substance or thing that may~~  
 8 ~~cause a firev shall be is~~ guilty of a misdemeanor."

9 Section 9. Section 28-118, R.C.M. 1947, is amended to  
 10 read as follows:

11 "28-118. Spark arresters to be provided ~~for enginesv~~  
 12 ~~etc. During the forest fire seasonv as defined by this actv~~  
 13 ~~no No person shall may~~ use, drive, or operate within any  
 14 forest lands, any wood-or-coal-burning locomotive, logging  
 15 engine, portable engine, traction engine, or stationary  
 16 engine, or any coal or wood burning jammer or loader, or  
 17 internal combustion engine which ~~that~~ is not equipped with  
 18 a modern, efficient, and adequate spark arrester and with  
 19 modern, efficient devices to prevent the escape of sparks,  
 20 coals, cinders, and other burning material from the smoke  
 21 stack, fire box, ash pan, or exhaust of any such engine,  
 22 jammer, or loader. ~~And it shall be unlawful for any person to~~  
 23 ~~operate any such engine, jammer, or loader, within any forest~~  
 24 ~~lands during any forest protection seasonv except when such~~  
 25 ~~spark arrester and other devices herein defined are~~

1 ~~efficientv complete and properly installed for the purpose~~  
 2 ~~intendedv"~~

3 Section 10. Section 28-122, R.C.M. 1947, is amended to  
 4 read as follows:

5 "28-122. Department of state lands ~~and commissioners~~  
 6 and ~~the~~ county commissioners governing body to cooperate.  
 7 The department of state lands and ~~boards of~~ county  
 8 commissioners governing body ~~may shall~~ cooperate with the  
 9 department to the extent legally permissible in providing  
 10 means and methods of safeguarding the forest land lying  
 11 within the state and in preventing fire nuisance thereon.  
 12 The department of state lands and the ~~boards of~~ county  
 13 commissioners governing body may list forest lands under  
 14 their jurisdiction with ~~a recognized agency or~~ the  
 15 department for forest protection. The moneys the state and  
 16 counties become liable for under this section shall be paid  
 17 from funds provided by law for the protection of the forest  
 18 lands owned by the state and counties."

19 Section 11. Section 28-129, R.C.M. 1947, is amended to  
 20 read as follows:

21 "28-129. Owners of forest lands may have hearing  
 22 before board -- conditions. An owner of forest land ~~within~~  
 23 ~~an organized forest fire protection district~~ is entitled to  
 24 a hearing before the board, after a request therefor, on any  
 25 subject pertaining to the activities of the board, or of the

1 department, or any recognized agency as agent of the  
 2 department, affecting the owner's property. A request for a  
 3 hearing before the board may not have the effect of  
 4 suspending the operations of the board, or the department,  
 5 or any agent of the department, undertaken pursuant to this  
 6 chapter, but, upon the hearing, the board may terminate  
 7 those operations if found unreasonable. A hearing pertaining  
 8 to costs charged against the forest land of an owner for  
 9 protection thereof, as provided in section 28-109, must be  
 10 requested on or before the ~~fifteenth day~~ of August 15 of  
 11 each year."

12 Section 12. Section 28-601, R.C.M. 1947, is amended to  
 13 read as follows:

14 "28-601. Authority of county commissioners governing  
 15 body to protect range, farm, and forest resources. For the  
 16 purpose of protection and conservation of range, farm, and  
 17 forest resources, and of the prevention of soil erosion, the  
 18 ~~respective boards of county commissioners~~ governing body are  
 19 ~~hereby authorized to~~ may perform the functions hereinafter  
 20 provided in this chapter."

21 Section 13. Section 28-602, R.C.M. 1947, is amended to  
 22 read as follows:

23 "28-602. Functions of the board county governing body.  
 24 ~~The functions of the respective boards of county~~  
 25 ~~commissioners~~ county governing body, with respect to rural

1 fire control, shall ~~be to~~ carry out the specific authorities  
 2 and duties hereinafter imposed:

3 (1) ~~To~~ The governing body shall provide for the  
 4 organization of volunteer rural fire control crews:

5 (2) ~~To~~ The governing body shall appoint a county rural  
 6 fire chief and such district rural fire chiefs, subject to  
 7 the direction and supervision of the county rural fire  
 8 chief, as they ~~may deem~~ consider necessary. The county rural  
 9 fire chief may be a regular county officer or other person  
 10 who in the opinion of the board is the best qualified to  
 11 perform the duties of this office and who ~~shall~~ serve  
 12 ~~without~~ is not entitled to additional compensation for the  
 13 duties hereby imposed. All district fire chiefs shall serve  
 14 without compensation:

15 ~~(3) Boards of county commissioners acting pursuant to~~  
 16 ~~this act may co-operate with federal, state and other fire~~  
 17 ~~protection agencies, including boards of county~~  
 18 ~~commissioners of adjoining counties in providing means and~~  
 19 ~~methods of safeguarding the range, farm and forest lands~~  
 20 ~~within the state and in preventing fire nuisance thereon:~~

21 (3) The county governing body shall protect the range,  
 22 farm, and forest lands within the county from fire in  
 23 cooperation with federal, state, and other fire protection  
 24 agencies, including governing bodies of adjoining counties."

25 Section 14. Section 28-603, R.C.M. 1947, is amended to

1 read as follows:

2 "28-603. Powers of board county governing body.  
 3 (1) ~~Boards of~~ The county commissioners governing body may  
 4 in ~~their~~ its discretion establish fire seasons annually  
 5 during which no person ~~shall~~ may ignite or set any forest  
 6 fire, or slash burning fire, or land clearing fire, or  
 7 debris burning fire, or any open fire, within any forest,  
 8 range, or crop lands, subject to the provisions of this act,  
 9 without having obtained an official written permit to ignite  
 10 or set such fire from a county rural fire chief or from a  
 11 district rural fire chief authorized by the board to issue  
 12 such permits for such lands.

13 (2) Any person who ~~shall~~ ignites or ~~set~~ sets  
 14 any forest fire, or slash burning fire, or land clearing  
 15 fire, or debris burning fire, or any open fire, within any  
 16 forest, range, or crop land subject to the provisions of  
 17 this act without first having obtained a written permit to  
 18 ignite or set such fire ~~shall~~ is be guilty of a  
 19 misdemeanor.

20 (3) To augment rural crews in case of serious  
 21 emergency, the ~~boards~~ governing body may provide for the  
 22 organization and training of voluntary urban fire crews to  
 23 be used in rural areas.

24 (4) Any county rural fire chief and/or district rural  
 25 fire chief may enter private property either with or without

1 fire control crews for the purpose of suppressing fires, and  
 2 are is exempt from any damage resulting from such activity.

3 (5) The board county governing body is authorized to  
 4 appropriate from the general fund of the county not to  
 5 exceed ~~fifteen--thousand--dollars--(\$15,000)~~ per year for the  
 6 purchase, care, and maintenance of ~~fire-fighting~~  
 7 firefighting equipment, or for the payment of wages to  
 8 skilled operators of heavy mechanized equipment in the  
 9 ~~prevention, detection, and~~ suppression of fires, when deemed  
 10 necessary, or if the general fund is budgeted to the full  
 11 limit, the board county governing body may at any time fixed  
 12 by law for levy and assessment of taxes levy a tax at such  
 13 rate as in their judgment will be necessary to raise such  
 14 needed sum not to exceed ~~fifteen--thousand--dollars~~  
 15 (\$15,000)."

16 Section 15. There is a new R.C.M. section that reads  
 17 as follows:

18 State to be reimbursed for forest fire suppression  
 19 activities in noncooperating counties. A county that has not  
 20 entered into a cooperative or other written agreement with  
 21 the state for forest protection shall reimburse the state  
 22 for costs incurred by the state in connection with state  
 23 fire suppression activities resulting from a forest fire  
 24 emergency in that county.

25 Section 16. Section 81-1411, R.C.M. 1947, is amended



1 to read as follows:

2 "81-1411. Duties of department of natural resources  
3 and conservation. The department of natural resources and  
4 conservation shall, under the direction and control of the  
5 state board of land commissioners, do all the field work in  
6 the selection, location, examination, appraisalment, and  
7 reappraisalment of state timberlands. It shall do all acts  
8 required of it by the board, and under the direction of the  
9 board it has general charge of the timberlands of the state.  
10 It shall, under the supervision of the board, execute all  
11 matters pertaining to forestry within the jurisdiction of  
12 the state; have charge of all firewardens of the state and  
13 direct and aid them in their duties; direct the protection,  
14 improvement, and condition of state forests; take such  
15 action as is authorized by law to prevent and extinguish  
16 forest, brush, and grass fires; enforce the laws pertaining  
17 to forest and brushcover lands, and prosecute for any  
18 violation of those laws. ~~It shall furnish notices, printed  
19 in large letters, calling attention to the danger from  
20 forest fires, and to the forest fire and trespass laws, and  
21 their penalties. These notices shall be posted by the  
22 firewarden in conspicuous places in the several counties of  
23 the state, and particularly in brush and forest covered  
24 country, at frequent intervals along streams and lakes  
25 frequented by tourists, hunters, and fishermen, at~~

1 ~~established camping sites, and in every post office in the~~  
2 ~~forested region. The department shall establish and maintain~~  
3 ~~forest fire control training programs for state firefighters~~  
4 ~~and other persons requiring training."~~

5 Section 17. Section 81-1412, R.C.M. 1947, is amended  
6 to read as follows:

7 "81-1412. Firewardens. The department of natural  
8 resources and conservation shall appoint firewardens in such  
9 number and localities as it considers necessary wise  
10 ~~public-spirited citizens to act as volunteer firewardens.~~  
11 Every sheriff, undersheriff, deputy sheriff, state fish and  
12 game warden, ~~and the state fish and game director, members~~  
13 ~~of the board of natural resources and conservation, the~~  
14 ~~director of the department of natural resources and~~  
15 ~~conservation and employees of the department designated by~~  
16 ~~him, officers of organized forest protection districts,~~  
17 ~~members of the Montana highway patrol, officers of the~~  
18 ~~national park service residing in Montana, and officers of~~  
19 ~~the bureau of Indian affairs is ex-officio a firewarden~~ are  
20 firewardens, but may not receive any additional compensation  
21 by reason of the duties hereby imposed, ~~and they shall be~~  
22 ~~considered paid firewardens under the terms of this act.~~ The  
23 supervisors and rangers of the federal forest lands within  
24 this state, whenever they formally accept the duties and  
25 responsibilities of firewardens, may be appointed volunteer

1 ~~firewardensv-and-have-all-the-powers-given-to-firewardens-by~~  
2 ~~this-act.~~ The firewardens shall promptly report all fires to  
3 the department of natural resources and conservation, take  
4 immediate and active steps toward their extinguishment,  
5 report any violation of forest laws, and assist in  
6 apprehending and convicting offenders."

7 Section 18. Section 81-1415, R.C.M. 1947, is amended  
8 to read as follows:

9 "81-1415. Duties of department of natural resources to  
10 protect state lands ~~firewardens--and--foresters.~~ The  
11 ~~department of-natural-resources--and--conservation--and--all~~  
12 ~~firewardens--(except-volunteer-wardens),~~ under such rules as  
13 the state board of land commissioners may provide, shall  
14 protect the timber natural resources of the state, and  
15 especially the timber natural resources owned by the state,  
16 from destruction by fire, and, for such purpose, in  
17 emergencies, may employ men and incur other expenses when  
18 necessary."

19 Section 19. Repealer. Sections 28-125, 28-128, and  
20 28-604, R.C.M. 1947, are repealed.

-End-

STATE OF MONTANA

REQUEST NO. 13-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 6, 19 77, there is hereby submitted a Fiscal Note for House Bill 68 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

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

DESCRIPTION OF PROPOSED LEGISLATION:

An act to remove barriers to more efficient delivery of forest fire protection services to forest and farm resources by simplifying the forest fire assessment system, and expanding responsibility of counties in providing protection.

FISCAL IMPACT:

This measure will have no discernable effect on revenues or expenditures.

  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1/12/77

Approved by Committee  
on State Administration

1 HOUSE BILL NO. 68

2 INTRODUCED BY BERTELSEN, ROBBINS, SIVERTSEN

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24 property; grassland and agricultural areas are included when  
25 those areas are intermingled with or contiguous to areas of

1 forest land.

2 (2) "Lands" for conservation purposes means all forest  
3 lands within this state which are officially classified by  
4 the ~~board~~ department as forest lands in accordance with  
5 ~~section 28-104-(b) under 28-106.~~

6 (3) "Forest fire" means a fire burning uncontrolled on  
7 forest lands.

8 (4) "~~Organized-forest~~ FOREST fire protection district"  
9 means a definite forest land area, the boundaries of which  
10 are fixed, and wherein forest fire protection is provided  
11 through the medium of an agency recognized by the board.

12 (5) "Recognized agency" means an agency representing  
13 ~~owners---of---forest---lands---in---an---organized---forest---fire~~  
14 ~~protection-district,~~ organized for the purpose of providing  
15 forest fire protection ~~in-the-district~~ and recognized by the  
16 board as giving adequate fire protection to forest lands in  
17 accordance with rules adopted by the board. ~~A-public--agency~~  
18 ~~administering--and--protecting--forest--lands--may--also--be~~  
19 ~~recognized-by-the-board-as-such-an-agency~~

20 (6) "Forest fire season" means the period of each year  
21 beginning on May first 1 and ending on September thirtieth  
22 30, inclusive; however, in the event of excessive or great  
23 fire danger, this period may be expanded when in the  
24 judgment of the department dangerous fire conditions exist.  
25 When expanded, the department shall give public notice.

1 (7) "Forest fire protection" means the work of  
2 prevention, detection, and suppression of forest fires and  
3 includes training required to perform those functions.

4 ~~{8}--"Protection-zone" means a broad area within which  
5 the forest fire protection costs are approximately the same.  
6 Protection zones shall be designated by the department, with  
7 the approval of the board.~~

8 {9}{8} "Conservation" means the protection and wise  
9 use of forest, forest range, forest water, and forest soil  
10 resources in keeping with the common welfare of the people  
11 of this state.

12 {10}{9} "Owner" means the person, firm, association,  
13 or corporation having the actual, beneficial ownership of  
14 forest land, or timber, other than an easement, ~~right-of-way~~  
15 right-of-way, or mineral reservation.

16 {11}{10} "Board" means the board of natural resources  
17 and conservation, provided for in section 82A-1509.

18 {12}{11} "Department" means the department of natural  
19 resources and conservation, provided for in Title 82A,  
20 chapter 15."

21 Section 2. Section 28-105, R.C.M. 1947, is amended to  
22 read as follows:

23 "28-105. Powers of board. The board may:

24 ~~{1}--Classify the forest and areas of the state for  
25 which conservation and fire protection measures are~~

1 ~~reasonably required, and change or modify the classification  
2 from time to time as in its judgment is proper.~~

3 {2}{1} Create organized forest fire protection  
4 districts. Before a district is created, the board shall  
5 hold a hearing in any county in which the proposed district  
6 or a part thereof is included and the department shall give  
7 notice of the hearing at least ~~twenty~~{20} days in advance  
8 thereof to all owners to be affected by the proposed  
9 district. Service of the notice may be made by registered  
10 or certified mail or by publication in a newspaper published  
11 in the county in which the hearing is to be held, ~~and~~ or  
12 if no newspaper is published in the county, then in a  
13 newspaper having a general circulation therein. A forest  
14 fire protection district may not be created unless approved  
15 in writing by vote of not less than ~~fifty-one per cent~~{51%}  
16 of the owners representing at least ~~fifty-one per cent~~{51%}  
17 of the acreage to be involved in the proposed forest fire  
18 protection district.

19 {3}{2} Adopt and enforce through the department  
20 reasonable rules for the purpose of enforcing and  
21 accomplishing the provisions and purposes of this chapter;  
22 however, these rules may not conflict with the powers of the  
23 board of land commissioners."

24 Section 3. Section 28-106, R.C.M. 1947, is amended to  
25 read as follows:

1 "28-106. Powers and duties of department. (1) The  
 2 department may give technical and practical advice to the  
 3 ~~farmers-of-the-state~~ concerning forest, range, water, and  
 4 soil conservation and the establishment and maintenance of  
 5 woodlots, windbreaks, ~~and shelters, shelterbelts, and forest~~  
 6 fire protection.

7 (2) The department may provide for forest fire  
 8 protection of any forest lands through the department or by  
 9 contract or any other feasible means, in cooperation with  
 10 any federal, state, or other recognized agency.

11 (3) The department may classify the forest land areas  
 12 of the state for which conservation and fire protection  
 13 measures are reasonably required and change or modify the  
 14 classification from time to time as in its judgment is  
 15 proper.

16 ~~(3)(4)~~ The department shall cooperate with all public  
 17 and other agencies in the development, protection, and  
 18 conservation of the forest, range, and water resources in  
 19 this state.

20 (5) Nonforest lands and improvements may be protected  
 21 by the department when requested by the landowner at rates  
 22 determined by the department.

23 ~~(4)(6)~~ The department shall assist the department of  
 24 state lands in the protection, economic development, and use  
 25 of the state forests and forest land held by the state for

1 the purposes and benefit of the common schools and state  
 2 institutions."

3 Section 4. Section 28-109, R.C.M. 1947, is amended to  
 4 read as follows:

5 "28-109. Duty of owner of classified forest land. ~~(1)~~  
 6 An owner of forest land classified as such by the board  
 7 ~~department~~ shall protect against the starting or existence  
 8 and suppress the spread of fire on that land ~~during the~~  
 9 ~~full period of each forest fire season.~~ This protection and  
 10 suppression shall be in conformity with reasonable rules and  
 11 standards for adequate fire protection adopted by the board.  
 12 If the owner does not provide for the protection and  
 13 suppression, the department may provide it, at a cost to the  
 14 landowner of not more than ~~sixteen cents (16¢)~~ 16 cents per  
 15 acre per year ~~for Class I land and not more than five cents~~  
 16 ~~(5¢) per acre per year for Class II land; in the event~~  
 17 ~~thereof, the~~ and not less than \$6 per owner per year in each  
 18 protection district. The owner of the land shall pay to the  
 19 county treasurer of the county in which the land is situated  
 20 the charge for the same approved by the department, in  
 21 accordance with this chapter. No other charges may be  
 22 assessed those landowners participating, except in cases of  
 23 proven negligence on the part of the landowner or his agent.

24 ~~(2) The forest land of Montana shall be classified for~~  
 25 ~~protection and assessment purposes as follows:~~

~~(a) Class I land forest land primarily suitable for production of timber and forest land primarily suitable for joint use for timber production and the grazing of livestock as a permanent or semipermanent joint use or as a temporary joint use during the interim between logging and reforestation.~~

~~(b) Class II land lands primarily suitable for grazing or other agricultural purposes, which are intersingled with or contiguous to the land described in subsection (a) above.~~

~~(c) Class III land lands primarily suitable for grazing or other agricultural purposes, including structures and improvements, which are within the forest fire protection areas but do not meet the detailed definitions of lands described in subsection (b) above. These lands may only be listed for payment when requested by the landowner at rates determined by the department and shall be submitted to the county assessor for collection and disposition as provided in section 28-111.~~

Section 5. Section 28-110, R.C.M. 1947, is amended to read as follows:

"28-110. What constitutes compliance. (1) An owner of Class I or Class II forest lands within an organized forest fire protection district, while a member of, or while participating in a recognized agency for forest protection,

shall be considered to have fully complied with the requirements of section 28-109.

(2) In establishing boundaries of organized forest fire protection districts covering Class I or Class II forest lands, the board may for the purpose of administrative convenience designate roads, pipelines, streams, or other recognizable landmarks as boundaries."

Section 6. Section 28-111, R.C.M. 1947, is amended to read as follows:

"28-111. Determination of costs of fire protection -- certification -- tax levy. (1) The department shall prepare a fire protection an annual operation assessment plan for the approval of the board in which fire protection costs for each classification within each protection zone are determined. ~~The board shall establish the portion of the planned fire protection costs to be borne by the state and the portion to be borne by the owners of classified forest land.~~ The department shall request the legislature to appropriate the state's portion of the cost as approved by the board. After the appropriation is made by the legislature, the department shall cause an assessment to be made on the owners of classified forest land, as specified in section 28-109, sufficient to bring the total amount received to the amount specified in the approved plan.

(2) On or before the second Tuesday in August of each

1 year, the department shall determine the names of all owners  
 2 who have failed to provide the forest fire protection for  
 3 their lands required by this chapter, together with the  
 4 description of the lands and their acreage, and calculate  
 5 the total amount due to the department from each owner for  
 6 forest fire protection, which amount may not exceed the  
 7 maximum specified in section 28-109.

8 ~~(3)~~ The department shall certify in writing to the  
 9 county assessor of each county the names of these owners of  
 10 forest lands in his county, together with a description of  
 11 their lands and a statement of the amount found to be due  
 12 and owing by each of the owners to the department for forest  
 13 fire protection.

14 (3) All payments required of owners of forest lands by  
 15 this chapter are assessments for benefits actually received  
 16 by those owners in the protection of their lands and are not  
 17 a tax upon the property of such owners.

18 (4) Upon receiving the certificate from the department  
 19 showing the amount due, the county assessor shall extend the  
 20 amounts upon the county tax rolls covering the lands, and  
 21 the sums shall become obligations of the owner to be paid  
 22 and collected in the same manner and at the same time and  
 23 with like penalties as general state and county taxes upon  
 24 the same property are collected. All sums collected shall be  
 25 promptly transmitted to the state treasurer, who shall

1 deposit them deposited in the federal and private grant  
 2 clearance fund for distribution in accordance with section  
 3 28-124."

4 Section 7. Section 28-114, R.C.M. 1947, is amended to  
 5 read as follows:

6 "28-114. Permit for burning required. During the  
 7 forest fire season or an expansion thereof, a person may not  
 8 ignite or set a forest fire, slash burning fire, land  
 9 clearing fire, debris burning fire, or an open fire, within  
 10 forest lands, without an official written permit to ignite  
 11 or set the fire from a firewarden or peace officer  
 12 authorized by the department to issue such permits for  
 13 forest lands the recognized protection agency for that  
 14 protection area. A permit is not required in order to  
 15 build, set, or ignite a campfire within and upon a  
 16 designated improved camping ground, or upon a plot of land  
 17 from which all vegetable and inflammable matter and debris  
 18 have been removed to a point where it may not become ignited  
 19 by the campfire or by sparks therefrom."

20 Section 8. Section 28-117, R.C.M. 1947, is amended to  
 21 read as follows:

22 "28-117. Throwing lighted cigarettes, etc., materials  
 23 -- penalty. During the forest fire season, as defined by  
 24 this act, any A person who shall throw or place throws or  
 25 places any lighted cigarette, cigar, ashes, or other flaming



1 or glowing substance or ~~any substance or thing~~ that may  
 2 ~~cause a fire in any place where such lighted cigarette~~  
 3 ~~cigar, match, ashes, or other flaming or glowing substance~~  
 4 ~~or other substance or things, may directly or indirectly~~  
 5 start a fire in or near any forest material or throw from a  
 6 vehicle any lighted cigarette, cigar, ashes or other flaming  
 7 or glowing substance or any substance or thing that may  
 8 cause a fire shall be is guilty of a misdemeanor."

9 Section 9. Section 28-118, R.C.M. 1947, is amended to  
 10 read as follows:

11 "28-118. Spark arresters to be provided for engines  
 12 etc. ~~during the forest fire season as defined by this act~~  
 13 no no person shall may use, drive, or operate within any  
 14 forest lands, any wood or coal burning locomotive, logging  
 15 engine, portable engine, traction engine, or stationary  
 16 engine or any coal or wood burning jammer or loader or  
 17 internal combustion engine which that is not equipped with  
 18 a modern, efficient, and adequate spark arrester and with  
 19 modern, efficient devices to prevent the escape of sparks,  
 20 coals, cinders, and other burning material from the smoke  
 21 stack, fire box, ash pan or exhaust of any such engine  
 22 jammer or loader. ~~and it shall be unlawful for any person to~~  
 23 ~~operate any such engine, jammer or loader within any forest~~  
 24 ~~lands during any forest protection season, except when such~~  
 25 ~~spark arrester and other devices herein defined are~~

1 ~~efficiently complete and properly installed for the purpose~~  
 2 ~~intended."~~

3 Section 10. Section 28-122, R.C.M. 1947, is amended to  
 4 read as follows:

5 "28-122. Department of state lands ~~and commissioners~~  
 6 and the county commissioners governing body to cooperate.  
 7 The department of state lands and ~~boards of county~~  
 8 commissioners governing body ~~may shall~~ cooperate with the  
 9 department to the extent legally permissible in providing  
 10 means and methods of safeguarding the forest land lying  
 11 within the state and in preventing fire nuisance thereon.  
 12 The department of state lands and the ~~boards of county~~  
 13 commissioners governing body ~~may~~ SHALL list forest lands  
 14 under their jurisdiction with a ~~recognized agency or~~ the  
 15 department for forest protection. The moneys the state and  
 16 counties become liable for under this section shall be paid  
 17 from funds provided by law for the protection of the forest  
 18 lands owned by the state and counties."

19 Section 11. Section 28-129, R.C.M. 1947, is amended to  
 20 read as follows:

21 "28-129. Owners of forest lands may have hearing  
 22 before board -- conditions. An owner of forest land within  
 23 an organized forest fire protection district is entitled to  
 24 a hearing before the board, after a request therefor, on any  
 25 subject pertaining to the activities of the board, or of the

1 department, or any recognized agency as agent of the  
 2 department, affecting the owner's property. A request for a  
 3 hearing before the board may not have the effect of  
 4 suspending the operations of the board, or the department,  
 5 or any agent of the department, undertaken pursuant to this  
 6 chapter, but, upon the hearing, the board may terminate  
 7 those operations if found unreasonable. A hearing pertaining  
 8 to costs charged against the forest land of an owner for  
 9 protection thereof, as provided in section 28-109, must be  
 10 requested on or before ~~the fifteenth day of~~ August 15 of  
 11 each year."

12 Section 12. Section 28-601, R.C.M. 1947, is amended to  
 13 read as follows:

14 "28-601. Authority of county commissioners governing  
 15 body to protect range, farm, and forest resources. For the  
 16 purpose of protection and conservation of range, farm, and  
 17 forest resources, and of the prevention of soil erosion, the  
 18 ~~respective boards of county commissioners governing body are~~  
 19 ~~hereby authorized to~~ may perform the functions hereinafter  
 20 provided in this chapter."

21 Section 13. Section 28-602, R.C.M. 1947, is amended to  
 22 read as follows:

23 "28-602. Functions of the board county governing body.  
 24 ~~The functions of the respective boards of county~~  
 25 ~~commissioners~~ county governing body, with respect to rural

1 fire control, shall be to carry out the specific authorities  
 2 and duties hereinafter imposed:

3 (1) ~~To~~ The governing body shall provide for the  
 4 organization of volunteer rural fire control crews:

5 (2) ~~To~~ The governing body shall appoint a county rural  
 6 fire chief and such district rural fire chiefs, subject to  
 7 the direction and supervision of the county rural fire  
 8 chief, as they ~~may deem~~ consider necessary. The county rural  
 9 fire chief may be a regular county officer or other person  
 10 who in the opinion of the board is the best qualified to  
 11 perform the duties of this office and who ~~shall serve~~  
 12 ~~without~~ is not entitled to additional compensation for the  
 13 duties hereby imposed. All district fire chiefs shall serve  
 14 without compensation:

15 ~~(3) Boards of county commissioners acting pursuant to~~  
 16 ~~this act may co-operate with federal, state and other fire~~  
 17 ~~protection agencies, including boards of county~~  
 18 ~~commissioners of adjoining counties in providing means and~~  
 19 ~~methods of safeguarding the range, farm and forest lands~~  
 20 ~~within the state and in preventing fire nuisance thereon.~~

21 (3) The county governing body shall protect the range,  
 22 farm, and forest lands within the county from fire in  
 23 cooperation with federal, state, and other fire protection  
 24 agencies, including governing bodies of adjoining counties."

25 Section 14. Section 28-603, R.C.M. 1947, is amended to

1 read as follows:

2 "28-603. Powers of board county governing body.

3 (1) ~~Boards--of~~ The county commissioners governing body may  
 4 in their its discretion establish fire seasons annually  
 5 during which no person ~~shall~~ may ignite or set any forest  
 6 fire, or slash burning fire, or land clearing fire, or  
 7 debris burning fire, or any open fire, within THE COUNTY  
 8 PROTECTION AREA ON any forest, range, or crop lands, subject  
 9 to the provisions of this act, without having obtained an  
 10 official written permit to ignite or set such fire from a  
 11 ~~county rural fire chief or from a district rural fire chief~~  
 12 ~~authorized by the board to issue such permits for such lands~~  
 13 THE RECOGNIZED PROTECTION AGENCY FOR THAT PROTECTION AREA.

14 (2) Any person who ~~shall~~ ignites or set sets  
 15 any forest fire, or slash burning fire, or land clearing  
 16 fire, or debris burning fire, or any open fire, within any  
 17 forest, range, or crop land subject to the provisions of  
 18 this act without first having obtained a written permit to  
 19 ignite or set such fire ~~shall~~ is be guilty of a  
 20 misdemeanor.

21 (3) To augment rural crews in case of serious  
 22 emergency, the boards governing body may provide for the  
 23 organization and training of voluntary urban fire crews to  
 24 be used in rural areas.

25 (4) Any county rural fire chief and/or district rural

1 fire chief may enter private property either with or without  
 2 fire control crews for the purpose of suppressing fires, and  
 3 ~~are~~ is exempt from any damage resulting from such activity.

4 (5) The board county governing body is authorized to  
 5 appropriate from the general fund of the county not to  
 6 exceed ~~fifteen-thousand-dollars-(\$15,000)~~ per year for the  
 7 purchase, care, and maintenance of ~~fire-fighting~~  
 8 firefighting equipment, or for the payment of wages to  
 9 skilled operators of heavy mechanized equipment in the  
 10 prevention, detection, and suppression of fires, when deemed  
 11 necessary, or if the general fund is budgeted to the full  
 12 limit, the board county governing body may at any time fixed  
 13 by law for levy and assessment of taxes levy a tax at such  
 14 rate as in their judgment will be necessary to raise such  
 15 needed sum not to exceed ~~fifteen--thousand--dollars~~  
 16 ~~(\$15,000).~~"

17 Section 15. There is a new R.C.M. section that reads  
 18 as follows:

19 State to be reimbursed for forest fire suppression  
 20 activities in noncooperating counties. A county that has not  
 21 entered into a cooperative or other written agreement with  
 22 the state for forest protection shall reimburse the state  
 23 for costs incurred by the state in connection with state  
 24 fire suppression activities resulting from a forest fire  
 25 emergency in that county.

1 Section 16. Section 81-1411, R.C.M. 1947, is amended  
2 to read as follows:

3 "81-1411. Duties of department of natural resources  
4 and conservation. The department of natural resources and  
5 conservation shall, under the direction and control of the  
6 state board of land commissioners, do all the field work in  
7 the selection, location, examination, appraisalment, and  
8 reappraisalment of state timberlands. It shall do all acts  
9 required of it by the board, and under the direction of the  
10 board it has general charge of the timberlands of the state.  
11 It shall, under the supervision of the board, execute all  
12 matters pertaining to forestry within the jurisdiction of  
13 the state; have charge of all firewardens of the state and  
14 direct and aid them in their duties; direct the protection,  
15 improvement, and condition of state forests; take such  
16 action as is authorized by law to prevent and extinguish  
17 forest, brush, and grass fires; enforce the laws pertaining  
18 to forest and brushcover lands, and prosecute for any  
19 violation of those laws. ~~It shall furnish notices, printed~~  
20 ~~in large letters, calling attention to the danger from~~  
21 ~~forest fires and to the forest fire and trespass laws and~~  
22 ~~their penalties. These notices shall be posted by the~~  
23 ~~firewarden in conspicuous places in the several counties of~~  
24 ~~the state and particularly in brush and forest covered~~  
25 ~~country, at frequent intervals along streams and lakes~~

1 frequented by tourists, hunters, and fishermen, at  
2 established camping sites, and in every post office in the  
3 forested region. The department shall establish and maintain  
4 forest fire control training programs for state firefighters  
5 and other persons requiring training."

6 Section 17. Section 81-1412, R.C.M. 1947, is amended  
7 to read as follows:

8 "81-1412. Firewardens. The department of natural  
9 resources and conservation shall appoint firewardens in such  
10 number and localities as it considers necessary wise  
11 public spirited citizens to act as volunteer firewardens.  
12 Every sheriff, undersheriff, deputy sheriff, state fish and  
13 game warden, and the state fish and game director, members  
14 of the board of natural resources and conservation, the  
15 director of the department of natural resources and  
16 conservation and employees of the department designated by  
17 him, officers of organized forest protection districts,  
18 members of the Montana highway patrol, officers of the  
19 national park service residing in Montana, and officers of  
20 the bureau of Indian affairs is ex-officio a firewarden are  
21 firewardens, but may not receive any additional compensation  
22 by reason of the duties hereby imposed, ~~and they shall be~~  
23 ~~considered paid firewardens under the terms of this act.~~ The  
24 supervisors and rangers of the federal forest lands within  
25 this state, whenever they formally accept the duties and

1 responsibilities of firewardens, may be appointed volunteer  
2 firewardens, ~~and have all the powers given to firewardens by~~  
3 ~~this act.~~ The firewardens shall promptly report all fires to  
4 the department of natural resources and conservation, take  
5 immediate and active steps toward their extinguishment,  
6 report any violation of forest laws, and assist in  
7 apprehending and convicting offenders."

8 Section 18. Section 81-1415, R.C.M. 1947, is amended  
9 to read as follows:

10 "81-1415. Duties of department of natural resources to  
11 protect state lands firewardens ~~---and--~~foresters. The  
12 ~~department of natural resources--and--conservation--and--all~~  
13 ~~firewardens--(except volunteer wardens),~~ under such rules as  
14 the state board of land commissioners may provide, shall  
15 protect the timber natural resources of the state, and  
16 especially the timber natural resources owned by the state,  
17 from destruction by fire, and, for such purpose, in  
18 emergencies, may employ men and incur other expenses when  
19 necessary."

20 Section 19. Repealer. Sections 28-125, 28-128, and  
21 28-604, R.C.M. 1947, are repealed.

-End-

HOUSE BILL NO. 68

INTRODUCED BY BERTELSEN, ROBBINS, SIVERTSEN

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING BARRIERS TO MORE EFFICIENT DELIVERY OF FOREST FIRE PROTECTION SERVICES TO MONTANA'S FOREST AND FARM RESOURCES BY SIMPLIFYING THE FOREST FIRE ASSESSMENT SYSTEM, EXPANDING THE RESPONSIBILITY AND AUTHORITY OF COUNTIES IN PROVIDING PROTECTION FOR FOREST AND FARM RESOURCES, AND CLARIFYING STATUTES RELATING TO FIREWARDENS; AMENDING SECTIONS 28-103, 28-105, 28-106, 28-109, 28-110, 28-111, 28-114, 28-117, 28-118, 28-122, 28-129, 28-601, 28-602, 28-603, 81-1411, 81-1412, AND 81-1415, R.C.M. 1947; AND REPEALING SECTIONS 28-125, 28-128, AND 28-604, R.C.M. 1947."

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

Section 1. Section 28-103, R.C.M. 1947, is amended to read as follows:

"28-103. Definitions. Unless the context requires otherwise, in this chapter:

(1) "Forest land" means land which has enough timber, standing or down, slash, or brush, to constitute in the judgment of the board department a fire menace to life or property; grassland and agricultural areas are included when those areas are intermingled with or contiguous to areas of

forest land.

(2) "Lands" for conservation purposes means all forest lands within this state which are officially classified by the board department as forest lands in accordance with section 28-104-(b) under 28-106.

(3) "Forest fire" means a fire burning uncontrolled on forest lands.

(4) "Organized-forest FORESI fire protection district" means a definite forest land area, the boundaries of which are fixed, and wherein forest fire protection is provided through the medium of an agency recognized by the board.

(5) "Recognized agency" means an agency representing owners of forest lands in an organized forest fire protection district, organized for the purpose of providing forest fire protection in the district and recognized by the board as giving adequate fire protection to forest lands in accordance with rules adopted by the board. public agency administering and protecting forest lands may also be recognized by the board as such an agency

(6) "Forest fire season" means the period of each year beginning on May first 1 and ending on September thirtieth 30, inclusive; however, in the event of excessive or great fire danger, this period may be expanded when in the judgment of the department dangerous fire conditions exist. When expanded, the department shall give public notice.

There are no changes in HB 68, and due to length will not be rerun. Please refer to yellow copy for complete text.

1 (7) "Forest fire protection" means the work of  
2 prevention, detection, and suppression of forest fires and  
3 includes training required to perform those functions.

4 ~~(8) "Protection zone" means a broad area within which~~  
5 ~~the forest fire protection costs are approximately the same.~~  
6 ~~Protection zones shall be designated by the department, with~~  
7 ~~the approval of the board.~~

8 ~~(9)~~(8) "Conservation" means the protection and wise  
9 use of forest, forest range, forest water, and forest soil  
10 resources in keeping with the common welfare of the people  
11 of this state.

12 ~~(10)~~(9) "Owner" means the person, firm, association,  
13 or corporation having the actual, beneficial ownership of  
14 forest land, or timber, other than an easement, ~~right-of-way~~  
15 right-of-way, or mineral reservation.

16 ~~(11)~~(10) "Board" means the board of natural resources  
17 and conservation, provided for in section 82A-1509.

18 ~~(12)~~(11) "Department" means the department of natural  
19 resources and conservation, provided for in Title 82A,  
20 chapter 15."

21 Section 2. Section 28-105, R.C.M. 1947, is amended to  
22 read as follows:

23 "28-105. Powers of board. The board may:

24 ~~(1) Classify the forest land areas of the state for~~  
25 ~~which conservation and fire protection measures are~~

1 ~~reasonably required, and change or modify the classification~~  
2 ~~from time to time as in its judgment is proper.~~

3 ~~(2)~~(1) Create organized forest fire protection  
4 districts. Before a district is created, the board shall  
5 hold a hearing in any county in which the proposed district  
6 or a part thereof is included and the department shall give  
7 notice of the hearing at least ~~twenty~~(20) days in advance  
8 thereof to all owners to be affected by the proposed  
9 district. Service of the notice may be made by registered  
10 or certified mail or by publication in a newspaper published  
11 in the county in which the hearing is to be held, ~~and or~~  
12 if no newspaper is published in the county, then in a  
13 newspaper having a general circulation therein. A forest  
14 fire protection district may not be created unless approved  
15 in writing by vote of not less than ~~fifty-one per cent~~(51%)  
16 of the owners representing at least ~~fifty-one per cent~~(51%)  
17 of the acreage to be involved in the proposed forest fire  
18 protection district.

19 ~~(3)~~(2) Adopt and enforce through the department  
20 reasonable rules for the purpose of enforcing and  
21 accomplishing the provisions and purposes of this chapter;  
22 however, these rules may not conflict with the powers of the  
23 board of land commissioners."

24 Section 3. Section 28-106, R.C.M. 1947, is amended to  
25 read as follows:

March 17, 1977

STANDING COMMITTEE REPORT  
Senate Committee on State Administration

That House Bill No. 68 be amended as follows:

1. Amend page 1, section 1, line 25.

Following: "to"

Insert: "and no further than one-half mile from"

2. Amend page 7, section 5, line 25.

Following: "protection,"

Insert: "or within areas protected by a county"

3. Amend page 14, section 13, line 21.

Following: "shall"

Insert: "within the limitations of 28-603"



March 22, 1977

SENATE  
COMMITTEE OF THE WHOLE

That House Bill No. 68 be amended as follows:

1. Amend page 16, section 14, lines 4 and 5.

Following: "appropriate"

Strike: "from the general fund of the county not to exceed fifteen  
thousand-dollars-{\$15,000} per year"

Insert: "funds"

2. Amend page 16, section 14, lines 7 and 8.

Following: "wages"

Strike: "to skilled operators of heavy mechanized equipment"

## 1 HOUSE BILL NO. 68

2 INTRODUCED BY BERTELSEN, ROBBINS, SIVERTSEN

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING BARRIERS TO  
5 MORE EFFICIENT DELIVERY OF FOREST FIRE PROTECTION SERVICES  
6 TO MONTANA'S FOREST AND FARM RESOURCES BY SIMPLIFYING THE  
7 FOREST FIRE ASSESSMENT SYSTEM, EXPANDING THE RESPONSIBILITY  
8 AND AUTHORITY OF COUNTIES IN PROVIDING PROTECTION FOR FOREST  
9 AND FARM RESOURCES, AND CLARIFYING STATUTES RELATING TO  
10 FIREWARDENS; AMENDING SECTIONS 28-103, 28-105, 28-106,  
11 28-109, 28-110, 28-111, 28-114, 28-117, 28-118, 28-122,  
12 28-129, 28-601, 28-602, 28-603, 81-1411, 81-1412, AND  
13 81-1415, R.C.M. 1947; AND REPEALING SECTIONS 28-125, 28-128,  
14 AND 28-604, R.C.M. 1947."

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

16 Section 1. Section 28-103, R.C.M. 1947, is amended to  
17 read as follows:18 "28-103. Definitions. Unless the context requires  
19 otherwise, in this chapter:

20  
21 (1) "Forest land" means land which has enough timber,  
22 standing or down, slash, or brush, to constitute in the  
23 judgment of the ~~board department~~ a fire menace to life or  
24 property; grassland and agricultural areas are included when  
25 those areas are intermingled with or contiguous to ~~AND NO~~

1 ~~FURTHER THAN ONE-HALE MILE FROM~~ areas of forest land.

2 (2) "Lands" for conservation purposes means all forest  
3 lands within this state which are officially classified by  
4 the ~~board department~~ as forest lands ~~in accordance with~~  
5 ~~section 28-104-(b) under 28-106.~~

6 (3) "Forest fire" means a fire burning uncontrolled on  
7 forest lands.

8 (4) ~~"Organized forest FOREST~~ fire protection district"  
9 means a definite forest land area, the boundaries of which  
10 are fixed, and wherein forest fire protection is provided  
11 through the medium of an agency recognized by the board.

12 (5) "Recognized agency" means an agency ~~representing~~  
13 ~~owners of forest lands in an organized forest fire~~  
14 ~~protection district~~ organized for the purpose of providing  
15 forest fire protection ~~in the district~~ and recognized by the  
16 board as giving adequate fire protection to forest lands in  
17 accordance with rules adopted by the board. ~~A public agency~~  
18 ~~administering and protecting forest lands may also be~~  
19 ~~recognized by the board as such an agency.~~

20 (6) "Forest fire season" means the period of each year  
21 beginning on May first 1 and ending on September thirtieth  
22 30, inclusive; however, in the event of excessive or great  
23 fire danger, this period may be expanded when in the  
24 judgment of the department dangerous fire conditions exist.  
25 When expanded, the department shall give public notice.

1 (7) "Forest fire protection" means the work of  
2 prevention, detection, and suppression of forest fires and  
3 includes training required to perform those functions.

4 ~~{8} "Protection zone" means a broad area within which~~  
5 ~~the forest fire protection costs are approximately the same.~~  
6 ~~Protection zones shall be designated by the department, with~~  
7 ~~the approval of the board.~~

8 ~~{9} {18} "Conservation" means the protection and wise~~  
9 ~~use of forest, forest range, forest water, and forest soil~~  
10 ~~resources in keeping with the common welfare of the people~~  
11 ~~of this state.~~

12 ~~{10} {19} "Owner" means the person, firm, association,~~  
13 ~~or corporation having the actual, beneficial ownership of~~  
14 ~~forest land, or timber, other than an easement, right-of-way~~  
15 ~~right-of-way, or mineral reservation.~~

16 ~~{11} {10} "Board" means the board of natural resources~~  
17 ~~and conservation, provided for in section 82A-1509.~~

18 ~~{12} {11} "Department" means the department of natural~~  
19 ~~resources and conservation, provided for in Title 82A,~~  
20 ~~chapter 15."~~

21 Section 2. Section 28-105, R.C.M. 1947, is amended to  
22 read as follows:

23 "28-105. Powers of board. The board may:

24 ~~{1} "Classify the forest land areas of the state for~~  
25 ~~which conservation and fire protection measures are~~

1 ~~reasonably required, and change or modify the classification~~  
2 ~~from time to time as in its judgment is proper.~~

3 ~~{2} {11} Create organized forest fire protection~~  
4 ~~districts. Before a district is created, the board shall~~  
5 ~~hold a hearing in any county in which the proposed district~~  
6 ~~or a part thereof is included and the department shall give~~  
7 ~~notice of the hearing at least twenty {20} days in advance~~  
8 ~~thereof to all owners to be affected by the proposed~~  
9 ~~district. Service of the notice may be made by registered~~  
10 ~~or certified mail or by publication in a newspaper published~~  
11 ~~in the county in which the hearing is to be held, and or~~  
12 ~~if no newspaper is published in the county, then in a~~  
13 ~~newspaper having a general circulation therein. A forest~~  
14 ~~fire protection district may not be created unless approved~~  
15 ~~in writing by vote of not less than fifty-one per cent {51%}~~  
16 ~~of the owners representing at least fifty-one per cent {51%}~~  
17 ~~of the acreage to be involved in the proposed forest fire~~  
18 ~~protection district.~~

19 ~~{3} {12} Adopt and enforce through the department~~  
20 ~~reasonable rules for the purpose of enforcing and~~  
21 ~~accomplishing the provisions and purposes of this chapter;~~  
22 ~~however, these rules may not conflict with the powers of the~~  
23 ~~board of land commissioners."~~

24 Section 3. Section 28-106, R.C.M. 1947, is amended to  
25 read as follows:

1       "28-106. Powers and duties of department. (1) The  
2 department may give technical and practical advice ~~to the~~  
3 ~~farmers of the state~~ concerning forest, range, water, and  
4 soil conservation and the establishment and maintenance of  
5 woodlots, windbreaks, ~~and shelters,~~ shelterbelts, and forest  
6 fire protection.

7       (2) The department may provide for forest fire  
8 protection of any forest lands through the department or by  
9 contract or any other feasible means, in cooperation with  
10 any federal, state, or other recognized agency.

11       (3) The department may classify the forest land areas  
12 of the state for which conservation and fire protection  
13 measures are reasonably required and change or modify the  
14 classification from time to time as in its judgment is  
15 proper.

16       ~~(3)(4)~~ The department shall cooperate with all public  
17 and other agencies in the development, protection, and  
18 conservation of the forest, range, and water resources in  
19 this state.

20       (5) Nonforest lands and improvements may be protected  
21 by the department when requested by the landowner at rates  
22 determined by the department.

23       ~~(4)(6)~~ The department shall assist the department of  
24 state lands in the protection, economic development, and use  
25 of the state forests and forest land held by the state for

1 the purposes and benefit of the common schools and state  
2 institutions."

3       Section 4. Section 28-109, R.C.M. 1947, is amended to  
4 read as follows:

5       "28-109. Duty of owner of classified forest land. ~~(1)~~  
6 An owner of forest land classified as such by the ~~board~~  
7 ~~department~~ shall protect against the starting or existence  
8 and suppress the spread of fire on that land ~~during the~~  
9 ~~full period of each forest fire season.~~ This protection and  
10 suppression shall be in conformity with reasonable rules and  
11 standards for adequate fire protection adopted by the board.  
12 If the owner does not provide for the protection and  
13 suppression, the department may provide it at a cost to the  
14 landowner of not more than ~~sixteen cents (16¢)~~ 16 cents per  
15 acre per year ~~for class I land and not more than five cents~~  
16 ~~(5¢) per acre per year for class II lands in the event~~  
17 ~~thereof, the and not less than \$6 per owner per year in each~~  
18 protection district. The owner of the land shall pay to the  
19 county treasurer of the county in which the land is situated  
20 the charge for the same approved by the department, in  
21 accordance with this chapter. No other charges may be  
22 assessed those landowners participating, except in cases of  
23 proven negligence on the part of the landowner or his agent.  
24       ~~(2) The forest land of Montana shall be classified for~~  
25 ~~protection and assessment purposes as follows:~~

1 ~~{a) Class I Land forest land primarily suitable for~~  
 2 ~~production of timber and forest land primarily suitable for~~  
 3 ~~joint use for timber production and the grazing of livestock~~  
 4 ~~as a permanent or semipermanent joint use or as a temporary~~  
 5 ~~joint use during the interim between logging and~~  
 6 ~~reforestation.~~

7 ~~{b) Class II Land lands primarily suitable for~~  
 8 ~~grazing or other agricultural purposes, which are~~  
 9 ~~intermingled with or contiguous to the land described in~~  
 10 ~~subsection (a) above.~~

11 ~~{c) Class III Land lands primarily suitable for~~  
 12 ~~grazing or other agricultural purposes, including structures~~  
 13 ~~and improvements, which are within the forest fire~~  
 14 ~~protection areas but do not meet the detailed definitions of~~  
 15 ~~lands described in subsection (b) above. These lands may~~  
 16 ~~only be listed for payment when requested by the landowner~~  
 17 ~~at rates determined by the department and shall be submitted~~  
 18 ~~to the county assessor for collection and disposition as~~  
 19 ~~provided in section 28-111."~~

20 Section 5. Section 28-110, R.C.M. 1947, is amended to  
 21 read as follows:

22 "28-110. What constitutes compliance. (1) An owner of  
 23 ~~Class I or Class II~~ forest lands within an organized forest  
 24 fire protection district, while a member of or while  
 25 participating in a recognized agency for forest protection,

1 OR WITHIN AREAS PROTECTED BY A COUNTY shall be considered to  
 2 have fully complied with the requirements of section 28-109.

3 (2) In establishing boundaries of organized forest  
 4 fire protection districts covering ~~Class I or Class II~~  
 5 forest lands, the board may for the purpose of  
 6 administrative convenience designate ~~roads, pipelines,~~  
 7 ~~streams, or other~~ recognizable landmarks as boundaries."

8 Section 6. Section 28-111, R.C.M. 1947, is amended to  
 9 read as follows:

10 "28-111. Determination of costs of fire protection --  
 11 certification -- tax levy. (1) The department shall prepare  
 12 ~~a fire protection~~ an annual operation assessment plan for  
 13 ~~the approval of the board~~ in which fire protection costs for  
 14 ~~each classification within each protection zone~~ are  
 15 determined. ~~The board shall establish the portion of the~~  
 16 ~~planned fire protection costs to be borne by the state and~~  
 17 ~~the portion to be borne by the owners of classified forest~~  
 18 ~~lands.~~ The department shall request the legislature to  
 19 appropriate the state's portion of the cost ~~es~~ approved by  
 20 ~~the board.~~ After the appropriation is made by the  
 21 legislature, the department shall cause an assessment to be  
 22 made on the owners of classified forest land, as specified  
 23 in section 28-109, sufficient to bring the total amount  
 24 received to the amount specified in the approved plan.

25 (2) On or before the second Tuesday in August of each

1 year, ~~the department shall determine the names of all owners~~  
 2 ~~who have failed to provide the forest fire protection for~~  
 3 ~~their lands required by this chapter, together with the~~  
 4 ~~description of the lands and their acreage, and calculate~~  
 5 ~~the total amount due to the department from each owner for~~  
 6 ~~forest fire protection, which amount may not exceed the~~  
 7 ~~maximum specified in section 28-109.~~

8 ~~(3) The~~ the department shall certify in writing to the  
 9 county assessor of each county the names of these owners of  
 10 forest lands in his county, together with a description of  
 11 their lands and a statement of the amount found to be due  
 12 and owing by each of the owners to the department for forest  
 13 fire protection.

14 (3) All payments required of owners of forest lands by  
 15 this chapter are assessments for benefits actually received  
 16 by those owners in the protection of their lands and are not  
 17 a tax upon the property of such owners.

18 (4) Upon receiving the certificate from the department  
 19 showing the amount due, the county assessor shall extend the  
 20 amounts upon the county tax rolls covering the lands, and  
 21 the sums shall become obligations of the owner to be paid  
 22 and collected in the same manner and at the same time and  
 23 with like penalties as general state and county taxes upon  
 24 the same property are collected. All sums collected shall be  
 25 promptly ~~transmitted to the state treasury, who shall~~

1 deposit them deposited in the federal and private grant  
 2 clearance fund for distribution in accordance with section  
 3 28-124."

4 Section 7. Section 28-114, R.C.M. 1947, is amended to  
 5 read as follows:

6 "28-114. Permit for burning required. During the  
 7 forest fire season or an expansion thereof, a person may not  
 8 ignite or set a forest fire, slash burning fire, land  
 9 clearing fire, debris burning fire, or an open fire, within  
 10 forest lands, without an official written permit to ignite  
 11 or set the fire from ~~a firewarden or peace officer~~  
 12 ~~authorized by the department to issue such permits for~~  
 13 ~~forest lands~~ the recognized protection agency for that  
 14 protection area. A permit is not required in order to  
 15 build, set, or ignite a campfire within and upon a  
 16 designated improved camping ground, or upon a plot of land  
 17 from which all vegetable and inflammable matter and debris  
 18 have been removed to a point where it may not become ignited  
 19 by the campfire or by sparks therefrom."

20 Section 8. Section 28-117, R.C.M. 1947, is amended to  
 21 read as follows:

22 "28-117. Throwing lighted ~~cigarettes, etc.~~ materials  
 23 ~~-- penalty. During the forest fire season, as defined by~~  
 24 ~~this act, any~~ A person who ~~shall throw or place~~ throws or  
 25 places any lighted cigarette, cigar, ashes, or other flaming

1 or glowing substance or ~~any substance or thing~~ that may  
 2 ~~cause a fire in any place where such lighted cigarette~~  
 3 ~~cigar, match, ashes, or other flaming or glowing substance~~  
 4 ~~or other substance or things, may directly or indirectly~~  
 5 start a fire in or near any forest material, or throw from a  
 6 vehicle any lighted cigarette, cigar, ashes or other flaming  
 7 or glowing substance, or any substance or thing that may  
 8 cause a fire, shall be is guilty of a misdemeanor."

9 Section 9. Section 28-118, R.C.M. 1947, is amended to  
 10 read as follows:

11 "28-118. Spark arresters to be provided for ~~engines~~  
 12 ~~etc. During the forest fire season, as defined by this act,~~  
 13 no no person shall may use, drive, or operate within any  
 14 forest lands, any wood or coal burning locomotive, logging  
 15 engine, portable engine, traction engine, or stationary  
 16 engine, or any coal or wood burning jammer or loader, or  
 17 internal combustion engine which ~~that~~ is not equipped with  
 18 a modern, efficient, and adequate spark arrester and with  
 19 modern, efficient devices to prevent the escape of sparks,  
 20 coals, cinders, and other burning material from the smoke  
 21 stack, fire box, ash pan, or exhaust of any such engine,  
 22 jammer or loader. ~~And it shall be unlawful for any person to~~  
 23 ~~operate any such engine, jammer or loader, within any forest~~  
 24 ~~lands during any forest protection season, except when such~~  
 25 ~~spark arrester and other devices herein defined are~~

1 ~~efficient, complete and properly installed for the purpose~~  
 2 ~~intended."~~

3 Section 10. Section 28-122, R.C.M. 1947, is amended to  
 4 read as follows:

5 "28-122. Department of state lands ~~and~~ ~~commissioners~~  
 6 and the county commissioners governing body to cooperate.  
 7 The department of state lands and ~~boards~~ of county  
 8 commissioners governing body ~~may~~ shall cooperate with the  
 9 department to the extent legally permissible in providing  
 10 means and methods of safeguarding the forest land lying  
 11 within the state and in preventing fire nuisance thereon.  
 12 The department of state lands and the ~~boards~~ of county  
 13 commissioners governing body ~~may~~ SHALL list forest lands  
 14 under their jurisdiction with ~~a recognized agency or~~ the  
 15 department for forest protection. The moneys the state and  
 16 counties become liable for under this section shall be paid  
 17 from funds provided by law for the protection of the forest  
 18 lands owned by the state and counties."

19 Section 11. Section 28-129, R.C.M. 1947, is amended to  
 20 read as follows:

21 "28-129. Owners of forest lands may have hearing  
 22 before board -- conditions. An owner of forest land ~~within~~  
 23 ~~an organized forest fire protection district~~ is entitled to  
 24 a hearing before the board, after a request therefor, on any  
 25 subject pertaining to the activities of the board, ~~or of the~~

1 department, or any recognized agency as agent of the  
 2 department affecting the owner's property. A request for a  
 3 hearing before the board may not have the effect of  
 4 suspending the operations of the board, or the department,  
 5 or any agent of the department, undertaken pursuant to this  
 6 chapter, but, upon the hearing, the board may terminate  
 7 those operations if found unreasonable. A hearing pertaining  
 8 to costs charged against the forest land of an owner for  
 9 protection thereof, as provided in section 28-109, must be  
 10 requested on or before the ~~fifteenth day~~ of August 15 of  
 11 each year."

12 Section 12. Section 28-601, R.C.M. 1947, is amended to  
 13 read as follows:

14 "28-601. Authority of county ~~commissioners governing~~  
 15 ~~body~~ to protect range, farm, and forest resources. For the  
 16 purpose of protection and conservation of range, farm, and  
 17 forest resources, and of the prevention of soil erosion, the  
 18 ~~respective boards of county commissioners governing body are~~  
 19 ~~hereby authorized to~~ may perform the functions hereinafter  
 20 provided in this chapter."

21 Section 13. Section 28-602, R.C.M. 1947, is amended to  
 22 read as follows:

23 "28-602. Functions of the ~~board~~ county governing body.  
 24 ~~The functions of the respective boards of county~~  
 25 ~~commissioners~~ county governing body, with respect to rural

1 fire control, shall ~~be to~~ carry out the specific authorities  
 2 and duties hereinafter imposed:

3 (1) ~~To~~ The governing body shall provide for the  
 4 organization of volunteer rural fire control crews;

5 (2) ~~To~~ The governing body shall appoint a county rural  
 6 fire chief and such district rural fire chiefs, subject to  
 7 the direction and supervision of the county rural fire  
 8 chief, as they ~~may deem~~ consider necessary. The county rural  
 9 fire chief may be a regular county officer or other person  
 10 who in the opinion of the board is the best qualified to  
 11 perform the duties of this office and who ~~shall serve~~  
 12 ~~without~~ is not entitled to additional compensation for the  
 13 duties hereby imposed. All district fire chiefs shall serve  
 14 without compensation;

15 ~~(3) Boards of county commissioners, acting pursuant to~~  
 16 ~~this act, may co-operate with federal, state and other fire~~  
 17 ~~protection agencies, including boards of county~~  
 18 ~~commissioners of adjoining counties in providing means and~~  
 19 ~~methods of safeguarding the range, farm and forest lands~~  
 20 ~~within the state and in preventing fire nuisance thereon.~~

21 (3) The county governing body shall WITHIN THE  
 22 LIMITATIONS OF 28-603 protect the range, farm, and forest  
 23 lands within the county from fire in cooperation with  
 24 federal, state, and other fire protection agencies,  
 25 including governing bodies of adjoining counties."



1 Section 14. Section 28-603, R.C.M. 1947, is amended to  
 2 read as follows:

3 "28-603. Powers of board county governing body.

4 (1) ~~Boards of The county commissioners governing body~~ may  
 5 in ~~their~~ its discretion establish fire seasons annually  
 6 during which no person ~~shall~~ may ignite or set any forest  
 7 fire, or slash burning fire, or land clearing fire, or  
 8 debris burning fire, or any open fire, within THE COUNTY  
 9 PROTECTION AREA ON any forest, range, or crop lands, subject  
 10 to the provisions of this act, without having obtained an  
 11 official written permit to ignite or set such fire from a  
 12 ~~county rural fire chief or from a district rural fire chief~~  
 13 ~~authorized by the board to issue such permits for such lands~~  
 14 THE RECOGNIZED PROTECTION AGENCY FOR THAT PROTECTION AREA.

15 (2) Any person who ~~shall~~ ignites or ~~set~~ sets  
 16 any forest fire, or slash burning fire, or land clearing  
 17 fire, or debris burning fire, or any open fire, within any  
 18 forest, range, or crop land subject to the provisions of  
 19 this act without first having obtained a written permit to  
 20 ignite or set such fire ~~shall~~ is be guilty of a  
 21 misdemeanor.

22 (3) To ~~augment~~ rural crews in case of serious  
 23 emergency, the ~~boards~~ governing body may provide for the  
 24 organization and training of voluntary urban fire crews to  
 25 be used in rural areas.

1 (4) Any county rural fire chief ~~and/or~~ district rural  
 2 fire chief may enter private property either with or without  
 3 fire control crews for the purpose of suppressing fires, and  
 4 ~~are~~ is exempt from any damage resulting from such activity.

5 (5) The board county governing body is authorized to  
 6 appropriate ~~from the general fund of the county not to~~  
 7 ~~exceed fifteen thousand dollars (\$15,000) per year FUNDS~~ for  
 8 the purchase, care, and maintenance of ~~fire-fighting~~  
 9 firefighting equipment, or for the payment of wages to  
 10 ~~skilled operators of heavy mechanized equipment in the~~  
 11 prevention, detection, and suppression of fires, when deemed  
 12 necessary, or if the general fund is budgeted to the full  
 13 limit, the board county governing body may at any time fixed  
 14 by law for levy and assessment of taxes levy a tax at such  
 15 rate as in their judgment will be necessary to raise such  
 16 needed sum not to exceed ~~fifteen thousand dollars~~  
 17 (\$15,000)."

18 Section 15. There is a new R.C.M. section that reads  
 19 as follows:

20 State to be reimbursed for forest fire suppression  
 21 activities in noncooperating counties. A county that has not  
 22 entered into a cooperative or other written agreement with  
 23 the state for forest protection shall reimburse the state  
 24 for costs incurred by the state in connection with state  
 25 fire suppression activities resulting from a forest fire

1 emergency in that county.

2 Section 16. Section 81-1411, R.C.M. 1947, is amended  
3 to read as follows:

4 "81-1411. Duties of department of natural resources  
5 and conservation. The department of natural resources and  
6 conservation shall, under the direction and control of the  
7 state board of land commissioners, do all the field work in  
8 the selection, location, examination, appraisalment, and  
9 reappraisalment of state timberlands. It shall do all acts  
10 required of it by the board, and under the direction of the  
11 board it has general charge of the timberlands of the state.  
12 It shall, under the supervision of the board, execute all  
13 matters pertaining to forestry within the jurisdiction of  
14 the state; have charge of all firewardens of the state and  
15 direct and aid them in their duties; direct the protection,  
16 improvement, and condition of state forests; take such  
17 action as is authorized by law to prevent and extinguish  
18 forest, brush, and grass fires; enforce the laws pertaining  
19 to forest and brushcover lands, and prosecute for any  
20 violation of those laws. ~~It shall furnish notices, printed~~  
21 ~~in large letters, calling attention to the danger from~~  
22 ~~forest fires, and to the forest fire and trespass laws, and~~  
23 ~~their penalties. These notices shall be posted by the~~  
24 ~~firewarden in conspicuous places in the several counties of~~  
25 ~~the state, and particularly in brush and forest covered~~

1 ~~country, at frequent intervals along streams and lakes~~  
2 ~~frequented by tourists, hunters, and fishermen, at~~  
3 ~~established camping sites, and in every post office in the~~  
4 ~~forested region. The department shall establish and maintain~~  
5 ~~forest fire control training programs for state firefighters~~  
6 ~~and other persons requiring training."~~

7 Section 17. Section 81-1412, R.C.M. 1947, is amended  
8 to read as follows:

9 "81-1412. Firewardens. The department of natural  
10 resources and conservation shall appoint firewardens in such  
11 number and localities as it considers necessary ~~wiser~~  
12 ~~public spirited citizens to act as volunteer firewardens.~~  
13 Every sheriff, undersheriff, deputy sheriff, state fish and  
14 game warden, and the state fish and game director, members  
15 of the board of natural resources and conservation, the  
16 director of the department of natural resources and  
17 conservation and employees of the department designated by  
18 him, officers of organized forest protection districts,  
19 members of the Montana highway patrol, officers of the  
20 national park service residing in Montana, and officers of  
21 the bureau of Indian affairs is ex-officio firewarden are  
22 firewardens, but may not receive any additional compensation  
23 by reason of the duties hereby imposed, ~~and they shall be~~  
24 ~~considered paid firewardens under the terms of this act.~~ The  
25 supervisors and rangers of the federal forest lands within

1 this state, whenever they formally accept the duties and  
2 responsibilities of firewardens, may be appointed volunteer  
3 firewardens, ~~and have all the powers given to firewardens by~~  
4 ~~this act.~~ The firewardens shall promptly report all fires to  
5 the department of natural resources and conservation, take  
6 immediate and active steps toward their extinguishment,  
7 report any violation of forest laws, and assist in  
8 apprehending and convicting offenders."

9 Section 18. Section 81-1415, R.C.M. 1947, is amended  
10 to read as follows:

11 "81-1415. Duties of department of natural resources to  
12 protect state lands ~~firewardens~~ ~~and foresters.~~ The  
13 ~~department of natural resources and conservation and all~~  
14 ~~firewardens (except volunteer wardens),~~ under such rules as  
15 the state board of land commissioners may provide, shall  
16 protect the timber natural resources of the state, and  
17 especially the timber natural resources owned by the state,  
18 from destruction by fire, and, for such purpose, in  
19 emergencies, may employ men and incur other expenses when  
20 necessary."

21 Section 19. Repealer. Sections 28-125, 28-128, and  
22 28-604, R.C.M. 1947, are repealed.

-End-