

SENATE BILL NO. 16
INTRODUCED BY KOLSTAD
BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

January 7, 1985	Introduced and referred to Committee on Public Health, Welfare and Safety.
January 15, 1985	Committee recommend bill do pass as amended. Report adopted.
January 16, 1985	Bill printed and placed on members' desks.
January 17, 1985	Second reading, do pass.
January 18, 1985	Considered correctly engrossed.
January 19, 1985	Third reading, passed. Ayes, 41; Noes, 2.
	Transmitted to House.

IN THE HOUSE

January 21, 1985	Introduced and referred to Committee on Human Services and Aging.
March 7, 1985	Committee recommend bill be concurred in. Report adopted.
March 9, 1985	Second reading, pass consideration.
March 12, 1985	Second reading, concurred in.
March 14, 1985	Third reading, concurred in. Returned to Senate.

IN THE SENATE

March 14, 1985

Received from House.

March 16, 1985

Sent to enrolling.

Reported correctly enrolled.

1 SENATE BILL NO. 16

2 AN ACT TO GENERALLY REVISE AND CLARIFY LAWS RELATING TO
3 HEALTH, SOCIAL SERVICES, AND TRANSPORTATION; AMENDING
4 SECTIONS 50-5-226, 50-5-301, 50-5-302, 50-37-102, 50-37-107,
5 50-37-108, 50-38-106, 50-60-101, 50-63-305, 53-2-706,
6 53-30-205, 60-2-202, 61-3-701, AND 61-3-431, MCA; AND
7 REPEALING SECTIONS 50-39-201 THROUGH 50-39-203 AND
8 53-24-205, MCA.

9 Section 1. 50-5-226. This amendment changes an
10 erroneous internal citation contained within the health care
11 facility licensing law. Section 50-5-226(2)(c) requires the
12 Department of Health and Environmental Sciences to provide
13 an appeal procedure for screening decisions made pursuant to
14 rules established under subsection (1)(b) of that statute.
15 The correct internal reference is to subsection (2)(b) of
16 that statute, which addresses screening standards to be
17 adopted by rule.

18 Section 2. 50-5-301. This amendment changes an
19 erroneous internal citation contained within the health care
20 facility certificate of need law. Section 50-5-301(1)(e)(i)
21 makes reference to a notice of intent required by
22 50-5-302(3). In fact, though, subsection (2) of 50-5-302
23 contains the requirement of a notice of intent before
24 acquiring an existing health care facility.

25 Section 3. 50-5-302. This amendment replaces a
26 bracketed reference in (1)(c)(iv) to section 9 of Ch. 329,
27 L. 1983, with the MCA section number under which it was
28 codified -- 50-5-309. The amendment also corrects an
29 apparent wrong choice of wording in (4) by substituting
30 "applicant" for "application".

31 Section 4. 50-37-102. This section and sections 5 and
32 6 of the bill remove inconsistencies in the laws controlling
33 fireworks. Presently, the State Fire Marshal or the
34 governing body of a city, town, or county is authorized
35 under 50-37-107 to grant permits for supervised public
36 displays of fireworks. However, references to the State Fire
37 Marshal and these governing bodies is inconsistent within
38 the chapter on fireworks. In 50-37-102(1) the word
39 "municipality" is used to refer to those entities issuing
40 permits for fireworks displays in declaring that the
41 provisions of the fireworks chapter of Title 50, MCA, does
42 not prohibit the sale of fireworks to the permitholder. The
43 proposed amendment would replace this underinclusive
44 reference, "holding a permit from any municipality", with

1 the language, "holding a permit issued under 50-37-107."

2 Section 5. 50-37-107. Even within this section, which
3 enumerates supervising entities for fireworks displays,
4 there are inconsistent references to those authorized to
5 grant permits. The proposed amendments would provide
6 accuracy in references that presently has been sacrificed in
7 the interest of brevity. Subsections (2)(a) and (2)(b) have
8 been changed so that each reference accurately enumerates
9 the State Fire Marshal or the governing body of the city,
10 town, or county. Subsection (5) is being deleted since the
11 above changes render obsolete the incomplete attempt of this
12 subsection to remedy the problem of inconsistent references.
13 Subsection (6) includes neither the state fire marshal nor
14 governing bodies of counties.

15 Section 6. 50-37-108. The amendments to this section
16 remove inconsistencies as explained under sections 4 and 5
17 above. Also, "deemed" is changed to "considered" for uniform
18 language style.

19 Section 7. 50-38-106. This amendment changes
20 "penitentiary" to "state prison" for uniformity in language
21 throughout the code.

22 Section 8. 50-60-101. This change is explained by
23 compiler's comments to the code which state: "Reference to
24 Council Apparently in Error: Chapter 226, L. 1974, was
25 entitled: "An act for the general revision of the laws
26 relating to the state building code." The act repealed
27 former 69-2106, R.C.M. 1947, which had established the State
28 Building Code Council and transferred most of the Council's
29 functions to the Department of Administration. Sections 11
30 and 12 of Ch. 226 provided for the substitution of
31 "department of administration" for "council" in several code
32 sections. However, the reference to "council" in
33 69-2105(12), R.C.M. 1947 (predecessor to 50-60-101(9)(b)),
34 was not changed to "department of administration" because,
35 in what appears to have been an oversight, 69-2105, R.C.M.
36 1947, was not listed in Ch. 226, section 11 or 12, as a
37 section in which this change was to be made."

38 Section 9. 50-63-305. The last sentence of section
39 50-63-305 sets forth a penalty for violating an oath
40 administered by the fire marshal in an investigative
41 proceeding. The penalty is superseded by the more detailed
42 provisions of the criminal code that distinguish among
43 perjury (45-7-201), false swearing (45-7-202), and unsworn
44 falsification to authorities (45-7-203). The penalty
45 provision is deleted from 50-63-305 to remove the conflict

1 created by the provision's statement that "false
2 swearing . . . is perjury and shall be punished as such."

3 Section 10. 53-2-706. In subsection (2)(b) deleted
4 brackets around a reference to Title 29 of the CFR
5 pertaining to appeal for redress under the WIN adjudication
6 process. The citation to the appropriate Title of the CFR
7 was erroneously omitted in Sec. 6, Ch. 390, L. 1981, from
8 which 53-2-706 derives.

9 Section 11. 53-30-205. This amendment changes
10 Department of Natural Resources and Conservation to the
11 Department of State Lands in order to conform to the
12 transfer in forestry functions accomplished by Ch. 529, L.
13 1981.

14 Section 12. 60-2-202. In subsection (1) changed "the
15 capitol" to "Helena" since the Department of Highways does
16 not have its office in the capitol.

17 Section 13. 61-3-701. In subsection (1), changed an
18 internal reference from "15-8-201 through 15-8-203" to
19 "15-8-201, 15-8-202," since 15-8-203 was repealed by Sec.
20 30, Ch. 712, L. 1979.

21 Section 14. 61-3-431. In subsection (1), changed an
22 internal reference from "61-1-104(2)" to "61-1-104" since
23 subsection (2) was deleted by Sec. 4, Ch. 421, L. 1979.

24 Section 15. Repealer.

25 A. 50-39-201 through 50-39-203. These three sections
26 address requirements for standardization of firehose
27 couplings and hydrant fittings. They were enacted in 1929
28 and have not been amended. The provisions are now obsolete
29 because of present manufacturing in conformity with national
30 standards and other reasons set forth in a letter of support
31 of repealer on fire in the Legislative Council office from
32 the State Fire Marshal.

33 B. 53-24-205. This section designates the Department of
34 Institutions as the single state agency for the
35 administration of federal programs under two laws that were
36 repealed in 1981:

37 (1) the Drug Abuse Office and Treatment Act of 1972,
38 P.L. 92-255, as amended, 21 U.S.C. section 1176 (repealed by
39 P.L. 97-24, Title IX, section 969(a), Aug. 13, 1981, 95
40 Stat. 595); and

41 (2) the Comprehensive Alcohol Abuse and Alcoholism
42 Prevention, Treatment, and Rehabilitation Act of 1970, P. L.
43 91-616, as amended, 42 U.S.C. section 4573 (repealed by P.L.
44 97-35, Title IX, section 962(b), Aug. 13, 1981, 95 Stat.

1 593.

2 The repealer does not affect the status of the
3 Department of Institutions' authority to apply for and
4 receive grants, allotments, or allocations of funds or other
5 assistance for purposes pertaining to the problems of
6 chemical dependency under federal law as section 53-24-206,
7 MCA, declares.

8 There is a letter supporting this repealer from the
9 Department of Institutions to the Code Commissioner on file
10 in the Legislative Council office.

1 SENATE BILL NO. 16
 2 INTRODUCED BY KOLSTAD
 3 BY REQUEST OF THE CODE COMMISSIONER
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY LAWS RELATING TO HEALTH, SOCIAL SERVICES, AND
 7 TRANSPORTATION; AMENDING SECTIONS 50-5-226, 50-5-301,
 8 50-5-302, 50-37-102, 50-37-107, 50-37-108, 50-38-106,
 9 50-60-101, 50-63-305, 53-2-706, 53-30-205, 60-2-202,
 10 61-3-701, AND 61-3-431, MCA; AND REPEALING SECTIONS
 11 50-39-201 THROUGH 50-39-203 AND 53-24-205, MCA."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 Section 1. Section 50-5-226, MCA, is amended to read:
 15 "50-5-226. Placement in personal-care facilities. (1)
 16 A personal-care facility may not have as a resident a person
 17 who is:
 18 (a) in need of medical or physical restraints;
 19 (b) nonambulatory or bedridden;
 20 (c) totally incontinent; or
 21 (d) less than 18 years of age.
 22 (2) The department shall, in consultation with the
 23 department of social and rehabilitation services, provide by
 24 rule:
 25 (a) an application or placement procedure informing a

1 prospective resident and, if applicable, his physician of:
 2 (i) physical and mental standards for residents of
 3 personal-care facilities;
 4 (ii) requirements for placement in a facility with a
 5 higher standard of care if a resident's condition
 6 deteriorates; and
 7 (iii) the services offered by the facility and services
 8 that a resident may receive from third-party providers while
 9 resident in the facility;
 10 (b) standards to be used by a facility and, if
 11 appropriate, by a screening agency to screen residents and
 12 prospective residents to prevent residence by persons
 13 prohibited by subsection (1);
 14 (c) a method by which the results of any screening
 15 decision made pursuant to rules established under subsection
 16 (1) (b) may be appealed by the facility operator or by or
 17 on behalf of a resident or prospective resident."
 18 Section 2. Section 50-5-301, MCA, is amended to read:
 19 "50-5-301. (Temporary) When certificate of need is
 20 required. (1) Unless a person has submitted an application
 21 for and is the holder of a certificate of need granted by
 22 the department, he may not initiate any of the following:
 23 (a) the incurring of an obligation by or on behalf of
 24 a health care facility for any capital expenditure, other
 25 than to acquire an existing health care facility, that



1 exceeds the expenditure thresholds established in or
 2 pursuant to subsection (5). The costs of any studies,
 3 surveys, designs, plans, working drawings, specifications,
 4 and other activities (including staff effort and consulting
 5 and other services) essential to the acquisition,
 6 improvement, expansion, or replacement of any plant or
 7 equipment with respect to which an expenditure is made must
 8 be included in determining if the expenditure exceeds the
 9 expenditure thresholds.

10 (b) a change in the bed capacity of a health care
 11 facility by 10 beds or 10%, whichever is less, in any 2-year
 12 period through:

13 (i) an increase or decrease in the total number of
 14 beds;

15 (ii) a redistribution of beds among various categories;
 16 or

17 (iii) a relocation of beds from one physical facility
 18 or site to another;

19 (c) the addition of a health service that is offered
 20 by or on behalf of a health care facility which was not
 21 offered by or on behalf of the facility within the 12-month
 22 period before the month in which the service would be
 23 offered and which will result in additional annual operating
 24 and amortization expenses of \$100,000 or more;

25 (d) the acquisition by any person of major medical

1 equipment, provided such acquisition would have required a
 2 certificate of need pursuant to subsection (1)(a) or (1)(c)
 3 of this section if it had been made by or on behalf of a
 4 health care facility;

5 (e) the incurring of an obligation for a capital
 6 expenditure by any person to acquire an existing health care
 7 facility if:

8 (i) the person has failed to submit the notice of
 9 intent required by ~~50-5-302(3)~~{50-5-302(2)}; or

10 (ii) the department finds within 30 days after it
 11 receives the notice of intent required by 50-5-302(3) that
 12 the acquisition will result in a change in the services or
 13 bed capacity of the facility;

14 (f) the construction, development, or other
 15 establishment of a health care facility which did not
 16 previously exist or which is being replaced; or

17 (g) the expansion of the geographical service area of
 18 a home health agency.

19 (2) For purposes of this section:

20 (a) "obligation for capital expenditure" does not
 21 include the authorization of bond sales or the offering or
 22 sale of bonds pursuant to the state long-range building
 23 program under Title 17, chapter 5, part 4, and Title 18,
 24 chapter 2, part 1;

25 (b) a health maintenance organization is to be

1 considered a health care facility except to the extent
2 exempted from certificate of need requirements as prescribed
3 in rules adopted by the department.

4 (3) A proposed change in a project associated with a
5 capital expenditure under subsection (1)(a) or (1)(b) for
6 which the department has previously issued a certificate of
7 need requires subsequent certificate of need review if the
8 change is proposed within 1 year after the date the activity
9 for which the capital expenditure was granted a certificate
10 of need is undertaken. As used in this subsection, a "change
11 in project" includes but is not limited to any change in the
12 bed capacity of a health care facility as described in
13 subsection (1)(b) and the addition or termination of a
14 health care service.

15 (4) If a person acquires an existing health care
16 facility without a certificate of need and proposes to
17 change, within 1 year after the acquisition, the services or
18 bed capacity of the health care facility, the proposed
19 change requires a certificate of need if one would have been
20 required originally under subsection (1)(e).

21 (5) (a) Expenditure thresholds for certificate of need
22 review are established as follows:

23 (i) For acquisition of equipment, the expenditure
24 threshold is \$500,000.

25 (ii) For construction of health care facilities, the

1 expenditure threshold is \$750,000.

2 (b) The department may by rule establish thresholds
3 higher than those established in subsection (5)(a) if
4 necessary and appropriate to accomplish the objectives of
5 this part. (Repealed effective July 1, 1987--sec. 13, Ch.
6 329, L. 1983.)"

7 Section 3. Section 50-5-302, MCA, is amended to read:

8 "50-5-302. (Temporary) Notice of intent -- application
9 and review process. (1) The department may adopt rules
10 including but not limited to rules for:

11 (a) the form and content of notices of intent and
12 applications;

13 (b) the scheduling and consolidation of reviews of
14 similar proposals;

15 (c) the abbreviated review of a proposal that:

16 (i) does not significantly affect the cost or use of
17 health care;

18 (ii) is necessary to eliminate or prevent imminent
19 safety hazards or to repair or replace a facility damaged or
20 destroyed as a result of fire, storm, civil disturbance, or
21 any act of God;

22 (iii) is necessary to comply with licensure or
23 certification standards; or

24 (iv) has been approved by the legislature pursuant to
25 the long-range building program under Title 17, chapter 5,

1 part 4, and Title 18, chapter 2, part 1, providing the
 2 legislative findings accompanying such approval give
 3 consideration to the criteria of 50-5-304, and subject to
 4 the provisions of ~~section 9~~ 50-5-309;

5 (d) the format of public informational hearings and
 6 reconsideration hearings; and

7 (e) the establishment of batching periods for
 8 certificate of need applications for new beds, establishment
 9 of new services, and replacement of health care facilities.

10 (2) At least 30 days before any person acquires or
 11 enters into a contract to acquire an existing health care
 12 facility, the person shall submit to the department and the
 13 appropriate health systems agency a notice of his intent to
 14 acquire the facility and of the services to be offered in
 15 the facility and its bed capacity.

16 (3) Any person intending to initiate an activity for
 17 which a certificate of need is required shall submit a
 18 letter of intent to the department. The letter of intent
 19 must be placed in the appropriate batch, if any. After
 20 expiration of the challenge period following the batching
 21 period in which the letter of intent was submitted or, if no
 22 batching is required, after receipt of the letter of intent,
 23 the department shall send the person an application form
 24 requiring the submission of information considered necessary
 25 by the department to determine if the proposed activity

1 meets the standards in 50-5-304.

2 (4) Within 15 calendar days after receipt of the
 3 application, the department shall determine whether it is
 4 complete. If, after the 15 days, the application is found
 5 incomplete, the department shall request the necessary
 6 additional information within 5 working days. Upon receipt
 7 of the additional information from the application
 8 ~~applicant~~, the department shall have 15 days to determine
 9 if the application is complete. If the department fails to
 10 make a determination as to the completeness of the
 11 application within the prescribed 15-day period, the
 12 application shall be deemed to be complete. If the
 13 applicant fails to submit the necessary additional
 14 information requested by the department by the deadline as
 15 prescribed by department rules for considering such reviews,
 16 a new letter of intent and application must be submitted and
 17 the application will be dropped from the current batch.

18 (5) After all applications in the current batch have
 19 been designated complete or, if an application does not
 20 require batching, after it is designated complete,
 21 notification must be sent to the applicants and all other
 22 affected persons regarding the department's projected time
 23 schedule for review of the applications. The review period
 24 for an application may be no longer than 90 calendar days
 25 after the notice is sent unless a longer period is agreed to

1 by the applicant or, if the application has been batched, by
 2 all applicants in the batch. All completed applications
 3 pertaining to similar types of services, facilities, or
 4 equipment affecting the same health service area may be
 5 considered in relation to each other. During the review
 6 period a public hearing may be held if requested by an
 7 affected person or when considered appropriate by the
 8 department.

9 (6) The department shall, after considering all
 10 comments received during the review period, issue a
 11 certificate of need, with or without conditions, or deny the
 12 application. The department shall notify the applicant and
 13 affected persons of its decision within 5 working days after
 14 expiration of the review period. If the department fails to
 15 reach a decision and notify the applicant of its decision
 16 within the deadlines established in this section and if that
 17 delay constitutes an abuse of the department's discretion,
 18 the applicant may apply to district court for a writ of
 19 mandamus to force the department to render a decision.
 20 (Repealed effective July 1, 1987--sec. 13, Ch. 329, L.
 21 1983.)"

22 Section 4. Section 50-37-102, MCA, is amended to read:
 23 "50-37-102. Where chapter not to apply. (1) Nothing in
 24 this chapter shall be construed to prohibit the sale of any
 25 kind of fireworks to a person holding a permit from--any

1 municipality issued under 50-37-107 at the display covered
 2 by such permits, the use of fireworks by railroads or other
 3 transportation agencies for signal purposes or illumination
 4 or when used in quarrying or blasting or other industrial
 5 use, or the sale or use of blank cartridges for a show or
 6 theater, for signal or ceremonial purposes in athletics or
 7 sports, or for use by military organizations or
 8 organizations composed of veterans of the United States
 9 armed forces.

10 (2) This chapter does not apply to toy paper caps
 11 containing less than one-fourth of a grain of explosive
 12 composition per cap, to the manufacture, storage, sale, or
 13 use of signals necessary for the safe operation of railroads
 14 or other classes of public or private transportation, to the
 15 military or naval forces of the United States or this state,
 16 to peace officers, or to the sale or use of blank cartridges
 17 for ceremonial, theatrical, or athletic events."

18 Section 5. Section 50-37-107, MCA, is amended to read:
 19 "50-37-107. Supervised public display of fireworks
 20 authorized. (1) The state fire marshal or the governing body
 21 of a city, town, or county may, under reasonable rules
 22 adopted by them, grant permits for supervised public
 23 displays of fireworks to be held by municipalities, fair
 24 associations, amusement parks, and other organizations or
 25 groups of individuals.

1 (2) Each display shall:

2 (a) be handled by a competent operator, who must be
3 approved by the state fire marshal or the governing body of
4 the municipality city, town, or county in which the display
5 is to be held; and

6 (b) be located, discharged, or fired as, in the
7 opinion of the state fire marshal or the chief of the fire
8 department or other officer designated by the governing body
9 of the municipality city, town, or county after proper
10 inspection, not to be hazardous to persons or property.

11 (3) Application for permits shall be made in writing
12 at least 15 days prior to the date of the display.

13 (4) After the privilege has been granted, sales,
14 possession, use, and distribution of fireworks for the
15 display are lawful for that purpose only.

16 (5) No permit granted under this section is
17 transferable.

18 ~~(6) The term "municipalities" includes cities and~~
19 ~~incorporated towns."~~

20 Section 6. Section 50-37-108, MCA, is amended to read:

21 "50-37-108. Damage indemnity bond required for public
22 display. The state fire marshal or the governing body of the
23 municipality city, town, or county shall require a bond
24 deemed considered adequate by the municipality state fire
25 marshal or governing body from the licensee in a sum not

1 less than \$500, conditioned for the payment of all damages
2 which may be caused either to a person or persons or to
3 property by reason of the licensed display and arising from
4 any acts of the licensee, his agents, employees, or
5 subcontractors."

6 Section 7. Section 50-38-106, MCA, is amended to read:

7 "50-38-106. General penalty. Any person or association
8 of persons violating any of the provisions of this chapter
9 shall be punished by imprisonment in the penitentiary state
10 prison not exceeding 5 years, by fine not exceeding \$5,000,
11 or by both such fine and imprisonment."

12 Section 8. Section 50-60-101, MCA, is amended to read:

13 "50-60-101. Definitions. As used in parts 1 through 4
14 and part 7 of this chapter, unless the context requires
15 otherwise, the following definitions apply:

16 (1) "Building" means a combination of any materials,
17 whether mobile, portable, or fixed, to form a structure and
18 the related facilities for the use or occupancy by persons
19 or property. The word "building" shall be construed as
20 though followed by the words "or part or parts thereof".

21 (2) "Building regulations" means any law, rule,
22 resolution, regulation, ordinance, or code, general or
23 special, or compilation thereof enacted or adopted by the
24 state or any municipality, including departments, boards,
25 bureaus, commissions, or other agencies of the state or a

1 municipality relating to the design, construction,
2 reconstruction, alteration, conversion, repair, inspection,
3 or use of buildings and installation of equipment in
4 buildings. The term does not include zoning ordinances.

5 (3) "Construction" means the original construction and
6 equipment of buildings and requirements or standards
7 relating to or affecting materials used, including
8 provisions for safety and sanitary conditions.

9 (4) "Department" means the department of
10 administration provided for in Title 2, chapter 15, part 10.

11 (5) "Equipment" means plumbing, heating, electrical,
12 ventilating, air conditioning, and refrigerating equipment,
13 elevators, dumbwaiters, escalators, and other mechanical
14 additions or installations.

15 (6) "Local building department" means the agency or
16 agencies of any municipality charged with the
17 administration, supervision, or enforcement of building
18 regulations, approval of plans, inspection of buildings, or
19 the issuance of permits, licenses, certificates, and similar
20 documents prescribed or required by state or local building
21 regulations.

22 (7) "Local legislative body" means the council or
23 commission charged with governing the municipality.

24 (8) "Municipality" means any incorporated city or town
25 and its jurisdictional area as defined by subsection (9) of

1 this section.

2 (9) (a) "Municipal jurisdictional area" means the area
3 within the limits of an incorporated municipality unless the
4 area is extended at the written request of a municipality.

5 (b) Upon request, the council department may approve
6 extension of the jurisdictional area to include:

7 (i) all or part of the area within 4 1/2 miles of the
8 corporate limits of a municipality;

9 (ii) all of any platted subdivision which is partially
10 within 4 1/2 miles of the corporate limits of a
11 municipality; and

12 (iii) all of any zoning district adopted pursuant to
13 Title 76, chapter 2, part 1 or 2, which is partially within
14 4 1/2 miles of the corporate limits of a municipality.

15 (c) Distances shall be measured in a straight line in
16 a horizontal plane.

17 (10) "Owner" means the owner or owners of the premises
18 or lesser estate, a mortgagee or vendee in possession,
19 assignee of rents, receiver, executor, trustee, lessee, or
20 other person, firm, or corporation in control of a building.

21 (11) "Recreational vehicle" means anything defined as a
22 recreational vehicle in the edition of NFPA No. 501C or ANSI
23 A119.2 most recently adopted by the state in accordance with
24 50-60-401.

25 (12) "State agency" means any state officer,

1 department, board, bureau, commission, or other agency of
2 this state.

3 (13) "State building code" means the state building
4 code provided for in 50-60-203 or any portion of the code of
5 limited application and any of its modifications or
6 amendments."

7 Section 9. Section 50-63-305, MCA, is amended to read:

8 "50-63-305. Fire marshal authorized to administer
9 oaths. For the purpose of this chapter, the state fire
10 marshal or a deputy fire marshal is authorized to administer
11 an oath to a person appearing as a witness in a proceeding
12 investigating a violation of the laws relating to fires.
13 ~~False--swearing-in-such-a-proceeding-is-perjury-and-shall-be~~
14 ~~punished-as-such."~~

15 Section 10. Section 53-2-706, MCA, is amended to read:

16 "53-2-706. Disqualification from public assistance --
17 right of appeal. (1) If the departments or their authorized
18 designees determine that a person required to participate in
19 the program has failed or refused to do so or has failed to
20 comply with the rules established under 53-2-707, that
21 person, upon written notice by one of the departments or its
22 authorized designee, shall be disqualified from receiving
23 AFDC payments. The termination of AFDC payments for any
24 person may not affect AFDC payments or any other form of
25 public assistance received by other members of the same

1 household.

2 (2) Upon written notification of disqualification, an
3 affected person may appeal to:

4 (a) the board for a fair hearing, pursuant to Title
5 53, chapter 2, part 6; or

6 (b) the department of labor and industry for redress
7 under the WIN adjudication process, pursuant to ~~129~~ CFR
8 part 56 and 45 CFR part 1398."

9 Section 11. Section 53-30-205, MCA, is amended to
10 read:

11 "53-30-205. Youth forest camps and work programs. In
12 the case of a youth forest camp, a work program shall be
13 provided by the department of ~~natural--resources--and~~
14 ~~conservation~~ state lands and shall be carried out with
15 cooperation between that department and the camp
16 superintendent."

17 Section 12. Section 60-2-202, MCA, is amended to read:

18 "60-2-202. Duties of department. The department shall:

19 (1) maintain and preserve the records of the
20 commission in its office at ~~the capitol~~ Helena;

21 (2) file and preserve copies of all plans,
22 specifications, contracts, estimates, and official acts
23 taken by it or by the commission;

24 (3) prepare and submit to the governor on or before
25 the 15th day of each month a report of work constructed,

1 under construction, and proposed for construction; the
 2 progress made during the preceding month; and
 3 recommendations for improvements and their estimated costs."

4 Section 13. Section 61-3-701, MCA, is amended to read:

5 "61-3-701. Foreign vehicles used in gainful occupation
 6 to be registered -- reciprocity. (1) Before any foreign
 7 licensed motor vehicle may be operated on the highways of
 8 this state for hire, compensation, or profit or before the
 9 owner and/or user thereof uses the vehicle if such owner
 10 and/or user is engaged in gainful occupation or business
 11 enterprise in the state, including highway work, the owner
 12 of the vehicle shall make application to a county treasurer
 13 for registration upon an application form furnished by the
 14 division. Upon satisfactory evidence of ownership submitted
 15 to the county treasurer and the payment of property taxes,
 16 if appropriate, as required by 15-8-201, ~~through 15-8-203~~
 17 15-8-202, or 15-24-301 or the payment of the light vehicle
 18 license fee as provided by 61-3-532, the treasurer shall
 19 accept the application for registration and shall collect
 20 the regular license fee required for the vehicle.

21 (2) The treasurer shall thereupon issue to the
 22 applicant a copy of the application certificate entitled
 23 "Owner's Certificate of Registration and Payment Receipt"
 24 and forward a duplicate copy of the certificate to the
 25 division. The treasurer shall at the same time issue to the

1 applicant the proper license plates or other identification
 2 markers, which shall at all times be displayed upon the
 3 vehicle when operated or driven upon roads and highways of
 4 this state during the period of the life of the license.

5 (3) The registration receipt shall not constitute
 6 evidence of ownership but shall be used only for
 7 registration purposes. No Montana certificate of ownership
 8 shall be issued for this type of registration.

9 (4) This section is not applicable to any vehicle
 10 covered by a valid and existing reciprocal agreement or
 11 declaration entered into under the provisions of the laws of
 12 Montana."

13 Section 14. Section 61-3-431, MCA, is amended to read:

14 "61-3-431. Special mobile equipment -- exemption from
 15 registration and payment of fees and charges --
 16 identification plate -- publicly owned special mobile
 17 equipment. (1) A person, firm, partnership, or corporation
 18 who owns, leases, or rents special mobile equipment as
 19 defined in 61-1-104~~2~~ and occasionally moves that equipment
 20 on, over, or across the highways of the state is not subject
 21 to registration of that equipment or required to pay the
 22 fees and charges provided for in 61-3-502, 61-4-301 through
 23 61-4-308, or part 2 of chapter 10. Prior to movement on the
 24 highways, however, each piece of equipment shall display an
 25 equipment identification plate or a dealer's license plate

1 attached to the equipment.

2 (2) Annual application for the identification plate
3 shall be made to the county treasurer before any piece of
4 equipment is moved on the highways. Application shall be
5 made on a form furnished by the department of justice,
6 together with the payment of a fee of \$5. The equipment for
7 which a special mobile equipment plate is sought is subject
8 to the assessment of personal property taxes on the date
9 application is made for the plate. The personal property
10 taxes assessed against the special mobile equipment must be
11 paid before the issuance of a special mobile equipment
12 plate. The fees collected under this section belong to the
13 county road fund.

14 (3) The identification plate expires on December 31 of
15 each year. If the expired identification plate is displayed,
16 an owner of special mobile equipment registered under the
17 provisions of this section is entitled to operate the
18 equipment between January 1 and February 15 following
19 expiration without displaying the identification plate or
20 receipt of the current year.

21 (4) Publicly owned special mobile equipment, and
22 implements of husbandry used exclusively by an owner in the
23 conduct of his own farming operations, are exempt from this
24 section."

25 NEW SECTION. Section 15. Repealer. Sections 50-39-201

1 through 50-39-203 and 53-24-205, MCA, are repealed.

-End-

1 SENATE BILL NO. 16

2 AN ACT TO GENERALLY REVISE AND CLARIFY LAWS RELATING TO
3 HEALTH, SOCIAL SERVICES, AND TRANSPORTATION; AMENDING
4 SECTIONS 50-5-226, 50-5-301, 50-5-302, 50-37-102, 50-37-107,
5 50-37-108, 50-38-106, 50-60-101, 50-63-305, 53-2-706,
6 53-30-205, 60-2-202, 61-3-701, AND 61-3-431, MCA; AND
7 REPEALING SECTIONS 50-39-201 THROUGH 50-39-203 AND
8 53-24-205, MCA.

9 Section 1. 50-5-226. This amendment changes an
10 erroneous internal citation contained within the health care
11 facility licensing law. Section 50-5-226(2)(c) requires the
12 Department of Health and Environmental Sciences to provide
13 an appeal procedure for screening decisions made pursuant to
14 rules established under subsection (1)(b) of that statute.
15 The correct internal reference is to subsection (2)(b) of
16 that statute, which addresses screening standards to be
17 adopted by rule.

18 Section 2. 50-5-301. This amendment changes an
19 erroneous internal citation contained within the health care
20 facility certificate of need law. Section 50-5-301(1)(e)(i)
21 makes reference to a notice of intent required by
22 50-5-302(3). In fact, though, subsection (2) of 50-5-302
23 contains the requirement of a notice of intent before
24 acquiring an existing health care facility.

25 Section 3. 50-5-302. This amendment replaces a
26 bracketed reference in (1)(c)(iv) to section 9 of Ch. 329,
27 L. 1983, with the MCA section number under which it was
28 codified -- 50-5-309. The amendment also corrects an
29 apparent wrong choice of wording in (4) by substituting
30 "applicant" for "application".

31 Section 4. 50-37-102. This section and sections 5 and
32 6 of the bill remove inconsistencies in the laws controlling
33 fireworks. Presently, the State Fire Marshal or the
34 governing body of a city, town, or county is authorized
35 under 50-37-107 to grant permits for supervised public
36 displays of fireworks. However, references to the State Fire
37 Marshal and these governing bodies is inconsistent within
38 the chapter on fireworks. In 50-37-102(1) the word
39 "municipality" is used to refer to those entities issuing
40 permits for fireworks displays in declaring that the
41 provisions of the fireworks chapter of Title 50, MCA, does
42 not prohibit the sale of fireworks to the permit holder. The
43 proposed amendment would replace this underinclusive
44 reference, "holding a permit from any municipality", with

1 the language, "holding a permit issued under 50-37-107."

2 Section 5. 50-37-107. Even within this section, which
3 enumerates supervising entities for fireworks displays,
4 there are inconsistent references to those authorized to
5 grant permits. The proposed amendments would provide
6 accuracy in references that presently has been sacrificed in
7 the interest of brevity. Subsections (2)(a) and (2)(b) have
8 been changed so that each reference accurately enumerates
9 the State Fire Marshal or the governing body of the city,
10 town, or county. Subsection (5) is being deleted since the
11 above changes render obsolete the incomplete attempt of this
12 subsection to remedy the problem of inconsistent references.
13 Subsection (6) includes neither the state fire marshal nor
14 governing bodies of counties.

15 Section 6. 50-37-108. The amendments to this section
16 remove inconsistencies as explained under sections 4 and 5
17 above. Also, "deemed" is changed to "considered" for uniform
18 language style.

19 Section 7. 50-38-106. This amendment changes
20 "penitentiary" to "state prison" for uniformity in language
21 throughout the code.

22 Section 8. 50-60-101. This change is explained by
23 compiler's comments to the code which state: "Reference to
24 Council Apparently in Error: Chapter 226, L. 1974, was
25 entitled: "An act for the general revision of the laws
26 relating to the state building code." The act repealed
27 former 69-2106, R.C.M. 1947, which had established the State
28 Building Code Council and transferred most of the Council's
29 functions to the Department of Administration. Sections 11
30 and 12 of Ch. 226 provided for the substitution of
31 "department of administration" for "council" in several code
32 sections. However, the reference to "council" in
33 69-2105(12), R.C.M. 1947 (predecessor to 50-60-101(9)(b)),
34 was not changed to "department of administration" because,
35 in what appears to have been an oversight, 69-2105, R.C.M.
36 1947, was not listed in Ch. 226, section 11 or 12, as a
37 section in which this change was to be made."

38 Section 9. 50-63-305. The last sentence of section
39 50-63-305 sets forth a penalty for violating an oath
40 administered by the fire marshal in an investigative
41 proceeding. The penalty is superseded by the more detailed
42 provisions of the criminal code that distinguish among
43 perjury (45-7-201), false swearing (45-7-202), and unsworn
44 falsification to authorities (45-7-203). The penalty
45 provision is deleted from 50-63-305 to remove the conflict

1 created by the provision's statement that "false
2 swearing . . . is perjury and shall be punished as such."

3 Section 10. 53-2-706. In subsection (2)(b) deleted
4 brackets around a reference to Title 29 of the CFR
5 pertaining to appeal for redress under the WIN adjudication
6 process. The citation to the appropriate Title of the CFR
7 was erroneously omitted in Sec. 6, Ch. 390, L. 1981, from
8 which 53-2-706 derives.

9 Section 11. 53-30-205. This amendment changes
10 Department of Natural Resources and Conservation to the
11 Department of State Lands in order to conform to the
12 transfer in forestry functions accomplished by Ch. 529, L.
13 1981.

14 Section 12. 60-2-202. In subsection (1) changed "the
15 capitol" to "Helena" since the Department of Highways does
16 not have its office in the capitol.

17 Section 13. 61-3-701. In subsection (1), changed an
18 internal reference from "15-8-201 through 15-8-203" to
19 "15-8-201, 15-8-202," since 15-8-203 was repealed by Sec.
20 30, Ch. 712, L. 1979.

21 Section 14. 61-3-431. In subsection (1), changed an
22 internal reference from "61-1-104(2)" to "61-1-104" since
23 subsection (2) was deleted by Sec. 4, Ch. 421, L. 1979.

24 Section 15. Repealer.

25 A. 50-39-201 through 50-39-203. These three sections
26 address requirements for standardization of firehose
27 couplings and hydrant fittings. They were enacted in 1929
28 and have not been amended. The provisions are now obsolete
29 because of present manufacturing in conformity with national
30 standards and other reasons set forth in a letter of support
31 of repealer on fire in the Legislative Council office from
32 the State Fire Marshal.

33 B. 53-24-205. This section designates the Department of
34 Institutions as the single state agency for the
35 administration of federal programs under two laws that were
36 repealed in 1981:

37 (1) the Drug Abuse Office and Treatment Act of 1972,
38 P.L. 92-255, as amended, 21 U.S.C. section 1176 (repealed by
39 P.L. 97-24, Title IX, section 969(a), Aug. 13, 1981, 95
40 Stat. 595); and

41 (2) the Comprehensive Alcohol Abuse and Alcoholism
42 Prevention, Treatment, and Rehabilitation Act of 1970, P. L.
43 91-616, as amended, 42 U.S.C. section 4573 (repealed by P.L.
44 97-35, Title IX, section 962(b), Aug. 13, 1981, 95 Stat.

1 593.

2 The repealer does not affect the status of the
3 Department of Institutions' authority to apply for and
4 receive grants, allotments, or allocations of funds or other
5 assistance for purposes pertaining to the problems of
6 chemical dependency under federal law as section 53-24-206,
7 MCA, declares.

8 There is a letter supporting this repealer from the
9 Department of Institutions to the Code Commissioner on file
10 in the Legislative Council office.

APPROVED BY COMMITTEE
ON PUBLIC HEALTH, WELFARE
& SAFETY

1 SENATE BILL NO. 16
 2 INTRODUCED BY KOLSTAD
 3 BY REQUEST OF THE CODE COMMISSIONER
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY LAWS RELATING TO HEALTH, SOCIAL SERVICES, AND
 7 TRANSPORTATION; AMENDING SECTIONS 50-5-226, 50-5-301,
 8 50-5-302, 50-37-102, 50-37-107, 50-37-108, 50-38-106,
 9 50-60-101, 50-63-305, 53-2-706, 53-30-205, 60-2-202,
 10 61-3-701, AND 61-3-431, MCA; AND REPEALING SECTIONS
 11 ~~50-39-201 THROUGH 50-39-203~~ AND SECTION 53-24-205, MCA."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 50-5-226, MCA, is amended to read:
 15 "50-5-226. Placement in personal-care facilities. (1)
 16 A personal-care facility may not have as a resident a person
 17 who is:

- 18 (a) in need of medical or physical restraints;
- 19 (b) nonambulatory or bedridden;
- 20 (c) totally incontinent; or
- 21 (d) less than 18 years of age.

22 (2) The department shall, in consultation with the
 23 department of social and rehabilitation services, provide by
 24 rule:

- 25 (a) an application or placement procedure informing a

1 prospective resident and, if applicable, his physician of:

2 (i) physical and mental standards for residents of
 3 personal-care facilities;

4 (ii) requirements for placement in a facility with a
 5 higher standard of care if a resident's condition
 6 deteriorates; and

7 (iii) the services offered by the facility and services
 8 that a resident may receive from third-party providers while
 9 resident in the facility;

10 (b) standards to be used by a facility and, if
 11 appropriate, by a screening agency to screen residents and
 12 prospective residents to prevent residence by persons
 13 prohibited by subsection (1);

14 (c) a method by which the results of any screening
 15 decision made pursuant to rules established under subsection
 16 ~~(1)~~ (2)(b) may be appealed by the facility operator or by or
 17 on behalf of a resident or prospective resident."

18 Section 2. Section 50-5-301, MCA, is amended to read:

19 "50-5-301. (Temporary) When certificate of need is
 20 required. (1) Unless a person has submitted an application
 21 for and is the holder of a certificate of need granted by
 22 the department, he may not initiate any of the following:

- 23 (a) the incurring of an obligation by or on behalf of
 24 a health care facility for any capital expenditure, other
 25 than to acquire an existing health care facility, that

1 exceeds the expenditure thresholds established in or
 2 pursuant to subsection (5). The costs of any studies,
 3 surveys, designs, plans, working drawings, specifications,
 4 and other activities (including staff effort and consulting
 5 and other services) essential to the acquisition,
 6 improvement, expansion, or replacement of any plant or
 7 equipment with respect to which an expenditure is made must
 8 be included in determining if the expenditure exceeds the
 9 expenditure thresholds.

10 (b) a change in the bed capacity of a health care
 11 facility by 10 beds or 10%, whichever is less, in any 2-year
 12 period through:

13 (i) an increase or decrease in the total number of
 14 beds;

15 (ii) a redistribution of beds among various categories;
 16 or

17 (iii) a relocation of beds from one physical facility
 18 or site to another;

19 (c) the addition of a health service that is offered
 20 by or on behalf of a health care facility which was not
 21 offered by or on behalf of the facility within the 12-month
 22 period before the month in which the service would be
 23 offered and which will result in additional annual operating
 24 and amortization expenses of \$100,000 or more;

25 (d) the acquisition by any person of major medical

1 equipment, provided such acquisition would have required a
 2 certificate of need pursuant to subsection (1)(a) or (1)(c)
 3 of this section if it had been made by or on behalf of a
 4 health care facility;

5 (e) the incurring of an obligation for a capital
 6 expenditure by any person to acquire an existing health care
 7 facility if:

8 (i) the person has failed to submit the notice of
 9 intent required by ~~50-5-302(3)~~-~~{50-5-302(2)}~~; or

10 (ii) the department finds within 30 days after it
 11 receives the notice of intent required by 50-5-302(3) that
 12 the acquisition will result in a change in the services or
 13 bed capacity of the facility;

14 (f) the construction, development, or other
 15 establishment of a health care facility which did not
 16 previously exist or which is being replaced; or

17 (g) the expansion of the geographical service area of
 18 a home health agency.

19 (2) For purposes of this section:

20 (a) "obligation for capital expenditure" does not
 21 include the authorization of bond sales or the offering or
 22 sale of bonds pursuant to the state long-range building
 23 program under Title 17, chapter 5, part 4, and Title 18,
 24 chapter 2, part 1;

25 (b) a health maintenance organization is to be

1 considered a health care facility except to the extent
2 exempted from certificate of need requirements as prescribed
3 in rules adopted by the department.

4 (3) A proposed change in a project associated with a
5 capital expenditure under subsection (1)(a) or (1)(b) for
6 which the department has previously issued a certificate of
7 need requires subsequent certificate of need review if the
8 change is proposed within 1 year after the date the activity
9 for which the capital expenditure was granted a certificate
10 of need is undertaken. As used in this subsection, a "change
11 in project" includes but is not limited to any change in the
12 bed capacity of a health care facility as described in
13 subsection (1)(b) and the addition or termination of a
14 health care service.

15 (4) If a person acquires an existing health care
16 facility without a certificate of need and proposes to
17 change, within 1 year after the acquisition, the services or
18 bed capacity of the health care facility, the proposed
19 change requires a certificate of need if one would have been
20 required originally under subsection (1)(e).

21 (5) (a) Expenditure thresholds for certificate of need
22 review are established as follows:

23 (i) For acquisition of equipment, the expenditure
24 threshold is \$500,000.

25 (ii) For construction of health care facilities, the

1 expenditure threshold is \$750,000.

2 (b) The department may by rule establish thresholds
3 higher than those established in subsection (5)(a) if
4 necessary and appropriate to accomplish the objectives of
5 this part. (Repealed effective July 1, 1987--sec. 13, Ch.
6 329, L. 1983.)"

7 Section 3. Section 50-5-302, MCA, is amended to read:

8 "50-5-302. (Temporary) Notice of intent -- application
9 and review process. (1) The department may adopt rules
10 including but not limited to rules for:

11 (a) the form and content of notices of intent and
12 applications;

13 (b) the scheduling and consolidation of reviews of
14 similar proposals;

15 (c) the abbreviated review of a proposal that:

16 (i) does not significantly affect the cost or use of
17 health care;

18 (ii) is necessary to eliminate or prevent imminent
19 safety hazards or to repair or replace a facility damaged or
20 destroyed as a result of fire, storm, civil disturbance, or
21 any act of God;

22 (iii) is necessary to comply with licensure or
23 certification standards; or

24 (iv) has been approved by the legislature pursuant to
25 the long-range building program under Title 17, chapter 5,

1 part 4, and Title 18, chapter 2, part 1, providing the
 2 legislative findings accompanying such approval give
 3 consideration to the criteria of 50-5-304, and subject to
 4 the provisions of ~~{section-9}~~ 50-5-309;

5 (d) the format of public informational hearings and
 6 reconsideration hearings; and

7 (e) the establishment of batching periods for
 8 certificate of need applications for new beds, establishment
 9 of new services, and replacement of health care facilities.

10 (2) At least 30 days before any person acquires or
 11 enters into a contract to acquire an existing health care
 12 facility, the person shall submit to the department and the
 13 appropriate health systems agency a notice of his intent to
 14 acquire the facility and of the services to be offered in
 15 the facility and its bed capacity.

16 (3) Any person intending to initiate an activity for
 17 which a certificate of need is required shall submit a
 18 letter of intent to the department. The letter of intent
 19 must be placed in the appropriate batch, if any. After
 20 expiration of the challenge period following the batching
 21 period in which the letter of intent was submitted or, if no
 22 batching is required, after receipt of the letter of intent,
 23 the department shall send the person an application form
 24 requiring the submission of information considered necessary
 25 by the department to determine if the proposed activity

1 meets the standards in 50-5-304.

2 (4) Within 15 calendar days after receipt of the
 3 application, the department shall determine whether it is
 4 complete. If, after the 15 days, the application is found
 5 incomplete, the department shall request the necessary
 6 additional information within 5 working days. Upon receipt
 7 of the additional information from the ~~applicant~~
 8 ~~{applicant}~~, the department shall have 15 days to determine
 9 if the application is complete. If the department fails to
 10 make a determination as to the completeness of the
 11 application within the prescribed 15-day period, the
 12 application shall be deemed to be complete. If the
 13 applicant fails to submit the necessary additional
 14 information requested by the department by the deadline as
 15 prescribed by department rules for considering such reviews,
 16 a new letter of intent and application must be submitted and
 17 the application will be dropped from the current batch.

18 (5) After all applications in the current batch have
 19 been designated complete or, if an application does not
 20 require batching, after it is designated complete,
 21 notification must be sent to the applicants and all other
 22 affected persons regarding the department's projected time
 23 schedule for review of the applications. The review period
 24 for an application may be no longer than 90 calendar days
 25 after the notice is sent unless a longer period is agreed to

1 by the applicant or, if the application has been batched, by
 2 all applicants in the batch. All completed applications
 3 pertaining to similar types of services, facilities, or
 4 equipment affecting the same health service area may be
 5 considered in relation to each other. During the review
 6 period a public hearing may be held if requested by an
 7 affected person or when considered appropriate by the
 8 department.

9 (6) The department shall, after considering all
 10 comments received during the review period, issue a
 11 certificate of need, with or without conditions, or deny the
 12 application. The department shall notify the applicant and
 13 affected persons of its decision within 5 working days after
 14 expiration of the review period. If the department fails to
 15 reach a decision and notify the applicant of its decision
 16 within the deadlines established in this section and if that
 17 delay constitutes an abuse of the department's discretion,
 18 the applicant may apply to district court for a writ of
 19 mandamus to force the department to render a decision.
 20 (Repealed effective July 1, 1987--sec. 13, Ch. 329, L.
 21 1983.)"

22 Section 4. Section 50-37-102, MCA, is amended to read:
 23 "50-37-102. Where chapter not to apply. (1) Nothing in
 24 this chapter shall be construed to prohibit the sale of any
 25 kind of fireworks to a person holding a permit ~~from any~~

1 municipality issued under 50-37-107 at the display covered
 2 by such permits, the use of fireworks by railroads or other
 3 transportation agencies for signal purposes or illumination
 4 or when used in quarrying or blasting or other industrial
 5 use, or the sale or use of blank cartridges for a show or
 6 theater, for signal or ceremonial purposes in athletics or
 7 sports, or for use by military organizations or
 8 organizations composed of veterans of the United States
 9 armed forces.

10 (2) This chapter does not apply to toy paper caps
 11 containing less than one-fourth of a grain of explosive
 12 composition per cap, to the manufacture, storage, sale, or
 13 use of signals necessary for the safe operation of railroads
 14 or other classes of public or private transportation, to the
 15 military or naval forces of the United States or this state,
 16 to peace officers, or to the sale or use of blank cartridges
 17 for ceremonial, theatrical, or athletic events."

18 Section 5. Section 50-37-107, MCA, is amended to read:
 19 "50-37-107. Supervised public display of fireworks
 20 authorized. (1) The state fire marshal or the governing body
 21 of a city, town, or county may, under reasonable rules
 22 adopted by them, grant permits for supervised public
 23 displays of fireworks to be held by municipalities, fair
 24 associations, amusement parks, and other organizations or
 25 groups of individuals.

1 (2) Each display shall:

2 (a) be handled by a competent operator, who must be
3 approved by the state fire marshal or the governing body of
4 the municipality city, town, or county in which the display
5 is to be held; and

6 (b) be located, discharged, or fired as, in the
7 opinion of the state fire marshal or the chief of the fire
8 department or other officer designated by the governing body
9 of the municipality city, town, or county after proper
10 inspection, not to be hazardous to persons or property.

11 (3) Application for permits shall be made in writing
12 at least 15 days prior to the date of the display.

13 (4) After the privilege has been granted, sales,
14 possession, use, and distribution of fireworks for the
15 display are lawful for that purpose only.

16 (5) No permit granted under this section is
17 transferable.

18 ~~(6) --The--term--"municipalities"--includes--cities--and~~
19 ~~incorporated--towns--"~~

20 Section 6. Section 50-37-108, MCA, is amended to read:

21 "50-37-108. Damage indemnity bond required for public
22 display. The state fire marshal or the governing body of the
23 municipality city, town, or county shall require a bond
24 deemed considered adequate by the municipality state fire
25 marshal or governing body from the licensee in a sum not

1 less than \$500, conditioned for the payment of all damages
2 which may be caused either to a person or persons or to
3 property by reason of the licensed display and arising from
4 any acts of the licensee, his agents, employees, or
5 subcontractors."

6 Section 7. Section 50-38-106, MCA, is amended to read:

7 "50-38-106. General penalty. Any person or association
8 of persons violating any of the provisions of this chapter
9 shall be punished by imprisonment in the penitentiary state
10 prison not exceeding 5 years, by fine not exceeding \$5,000,
11 or by both such fine and imprisonment."

12 Section 8. Section 50-60-101, MCA, is amended to read:

13 "50-60-101. Definitions. As used in parts 1 through 4
14 and part 7 of this chapter, unless the context requires
15 otherwise, the following definitions apply:

16 (1) "Building" means a combination of any materials,
17 whether mobile, portable, or fixed, to form a structure and
18 the related facilities for the use or occupancy by persons
19 or property. The word "building" shall be construed as
20 though followed by the words "or part or parts thereof".

21 (2) "Building regulations" means any law, rule,
22 resolution, regulation, ordinance, or code, general or
23 special, or compilation thereof enacted or adopted by the
24 state or any municipality, including departments, boards,
25 bureaus, commissions, or other agencies of the state or a

1 municipality relating to the design, construction,
2 reconstruction, alteration, conversion, repair, inspection,
3 or use of buildings and installation of equipment in
4 buildings. The term does not include zoning ordinances.

5 (3) "Construction" means the original construction and
6 equipment of buildings and requirements or standards
7 relating to or affecting materials used, including
8 provisions for safety and sanitary conditions.

9 (4) "Department" means the department of
10 administration provided for in Title 2, chapter 15, part 10.

11 (5) "Equipment" means plumbing, heating, electrical,
12 ventilating, air conditioning, and refrigerating equipment,
13 elevators, dumbwaiters, escalators, and other mechanical
14 additions or installations.

15 (6) "Local building department" means the agency or
16 agencies of any municipality charged with the
17 administration, supervision, or enforcement of building
18 regulations, approval of plans, inspection of buildings, or
19 the issuance of permits, licenses, certificates, and similar
20 documents prescribed or required by state or local building
21 regulations.

22 (7) "Local legislative body" means the council or
23 commission charged with governing the municipality.

24 (8) "Municipality" means any incorporated city or town
25 and its jurisdictional area as defined by subsection (9) of

1 this section.

2 (9) (a) "Municipal jurisdictional area" means the area
3 within the limits of an incorporated municipality unless the
4 area is extended at the written request of a municipality.

5 (b) Upon request, the ~~council~~ department may approve
6 extension of the jurisdictional area to include:

7 (i) all or part of the area within 4 1/2 miles of the
8 corporate limits of a municipality;

9 (ii) all of any platted subdivision which is partially
10 within 4 1/2 miles of the corporate limits of a
11 municipality; and

12 (iii) all of any zoning district adopted pursuant to
13 Title 76, chapter 2, part 1 or 2, which is partially within
14 4 1/2 miles of the corporate limits of a municipality.

15 (c) Distances shall be measured in a straight line in
16 a horizontal plane.

17 (10) "Owner" means the owner or owners of the premises
18 or lesser estate, a mortgagee or vendee in possession,
19 assignee of rents, receiver, executor, trustee, lessee, or
20 other person, firm, or corporation in control of a building.

21 (11) "Recreational vehicle" means anything defined as a
22 recreational vehicle in the edition of NFPA No. 501C or ANSI
23 A119.2 most recently adopted by the state in accordance with
24 50-60-401.

25 (12) "State agency" means any state officer,

1 department, board, bureau, commission, or other agency of
2 this state.

3 (13) "State building code" means the state building
4 code provided for in 50-60-203 or any portion of the code of
5 limited application and any of its modifications or
6 amendments."

7 Section 9. Section 50-63-305, MCA, is amended to read:

8 "50-63-305. Fire marshal authorized to administer
9 oaths. For the purpose of this chapter, the state fire
10 marshal or a deputy fire marshal is authorized to administer
11 an oath to a person appearing as a witness in a proceeding
12 investigating a violation of the laws relating to fires.
13 ~~Faise--swearing-in-such-a-proceeding-is-perjury-and-shall-be~~
14 ~~punished-as-such."~~

15 Section 10. Section 53-2-706, MCA, is amended to read:

16 "53-2-706. Disqualification from public assistance --
17 right of appeal. (1) If the departments or their authorized
18 designees determine that a person required to participate in
19 the program has failed or refused to do so or has failed to
20 comply with the rules established under 53-2-707, that
21 person, upon written notice by one of the departments or its
22 authorized designee, shall be disqualified from receiving
23 AFDC payments. The termination of AFDC payments for any
24 person may not affect AFDC payments or any other form of
25 public assistance received by other members of the same

1 household.

2 (2) Upon written notification of disqualification, an
3 affected person may appeal to:

4 (a) the board for a fair hearing, pursuant to Title
5 53, chapter 2, part 6; or

6 (b) the department of labor and industry for redress
7 under the WIN adjudication process, pursuant to f29+ CFR
8 part 56 and 45 CFR part 1398."

9 Section 11. Section 53-30-205, MCA, is amended to
10 read:

11 "53-30-205. Youth forest camps and work programs. In
12 the case of a youth forest camp, a work program shall be
13 provided by the department of ~~natural--resources--and~~
14 ~~conservation~~ state lands and shall be carried out with
15 cooperation between that department and the camp
16 superintendent."

17 Section 12. Section 60-2-202, MCA, is amended to read:

18 "60-2-202. Duties of department. The department shall:
19 (1) maintain and preserve the records of the
20 commission in its office at ~~the capitol~~ Helena;

21 (2) file and preserve copies of all plans,
22 specifications, contracts, estimates, and official acts
23 taken by it or by the commission;

24 (3) prepare and submit to the governor on or before
25 the 15th day of each month a report of work constructed,

1 under construction, and proposed for construction; the
 2 progress made during the preceding month; and
 3 recommendations for improvements and their estimated costs."

4 Section 13. Section 61-3-701, MCA, is amended to read:

5 "61-3-701. Foreign vehicles used in gainful occupation
 6 to be registered -- reciprocity. (1) Before any foreign
 7 licensed motor vehicle may be operated on the highways of
 8 this state for hire, compensation, or profit or before the
 9 owner and/or user thereof uses the vehicle if such owner
 10 and/or user is engaged in gainful occupation or business
 11 enterprise in the state, including highway work, the owner
 12 of the vehicle shall make application to a county treasurer
 13 for registration upon an application form furnished by the
 14 division. Upon satisfactory evidence of ownership submitted
 15 to the county treasurer and the payment of property taxes,
 16 if appropriate, as required by 15-8-201, ~~through 15-8-203~~
 17 15-8-202, or 15-24-301 or the payment of the light vehicle
 18 license fee as provided by 61-3-532, the treasurer shall
 19 accept the application for registration and shall collect
 20 the regular license fee required for the vehicle.

21 (2) The treasurer shall thereupon issue to the
 22 applicant a copy of the application certificate entitled
 23 "Owner's Certificate of Registration and Payment Receipt"
 24 and forward a duplicate copy of the certificate to the
 25 division. The treasurer shall at the same time issue to the

1 applicant the proper license plates or other identification
 2 markers, which shall at all times be displayed upon the
 3 vehicle when operated or driven upon roads and highways of
 4 this state during the period of the life of the license.

5 (3) The registration receipt shall not constitute
 6 evidence of ownership but shall be used only for
 7 registration purposes. No Montana certificate of ownership
 8 shall be issued for this type of registration.

9 (4) This section is not applicable to any vehicle
 10 covered by a valid and existing reciprocal agreement or
 11 declaration entered into under the provisions of the laws of
 12 Montana."

13 Section 14. Section 61-3-431, MCA, is amended to read:

14 "61-3-431. Special mobile equipment -- exemption from
 15 registration and payment of fees and charges --
 16 identification plate -- publicly owned special mobile
 17 equipment. (1) A person, firm, partnership, or corporation
 18 who owns, leases, or rents special mobile equipment as
 19 defined in 61-1-104~~(2)~~ and occasionally moves that equipment
 20 on, over, or across the highways of the state is not subject
 21 to registration of that equipment or required to pay the
 22 fees and charges provided for in 61-3-502, 61-4-301 through
 23 61-4-308, or part 2 of chapter 10. Prior to movement on the
 24 highways, however, each piece of equipment shall display an
 25 equipment identification plate or a dealer's license plate

1 attached to the equipment.

2 (2) Annual application for the identification plate
3 shall be made to the county treasurer before any piece of
4 equipment is moved on the highways. Application shall be
5 made on a form furnished by the department of justice,
6 together with the payment of a fee of \$5. The equipment for
7 which a special mobile equipment plate is sought is subject
8 to the assessment of personal property taxes on the date
9 application is made for the plate. The personal property
10 taxes assessed against the special mobile equipment must be
11 paid before the issuance of a special mobile equipment
12 plate. The fees collected under this section belong to the
13 county road fund.

14 (3) The identification plate expires on December 31 of
15 each year. If the expired identification plate is displayed,
16 an owner of special mobile equipment registered under the
17 provisions of this section is entitled to operate the
18 equipment between January 1 and February 15 following
19 expiration without displaying the identification plate or
20 receipt of the current year.

21 (4) Publicly owned special mobile equipment, and
22 implements of husbandry used exclusively by an owner in the
23 conduct of his own farming operations, are exempt from this
24 section."

25 NEW SECTION. Section 15. Repealer. Sections-50-39-201

1 through--50-39-203--and SECTION 53-24-205, MCA, are IS
2 repealed.

-End-

1 SENATE BILL NO. 16

2 AN ACT TO GENERALLY REVISE AND CLARIFY LAWS RELATING TO
3 HEALTH, SOCIAL SERVICES, AND TRANSPORTATION; AMENDING
4 SECTIONS 50-5-226, 50-5-301, 50-5-302, 50-37-102, 50-37-107,
5 50-37-108, 50-38-106, 50-60-101, 50-63-305, 53-2-706,
6 53-30-205, 60-2-202, 61-3-701, AND 61-3-431, MCA; AND
7 REPEALING SECTIONS 50-39-201 THROUGH 50-39-203 AND
8 53-24-205, MCA.

9 Section 1. 50-5-226. This amendment changes an
10 erroneous internal citation contained within the health care
11 facility licensing law. Section 50-5-226(2)(c) requires the
12 Department of Health and Environmental Sciences to provide
13 an appeal procedure for screening decisions made pursuant to
14 rules established under subsection (1)(b) of that statute.
15 The correct internal reference is to subsection (2)(b) of
16 that statute, which addresses screening standards to be
17 adopted by rule.

18 Section 2. 50-5-301. This amendment changes an
19 erroneous internal citation contained within the health care
20 facility certificate of need law. Section 50-5-301(1)(e)(i)
21 makes reference to a notice of intent required by
22 50-5-302(3). In fact, though, subsection (2) of 50-5-302
23 contains the requirement of a notice of intent before
24 acquiring an existing health care facility.

25 Section 3. 50-5-302. This amendment replaces a
26 bracketed reference in (1)(c)(iv) to section 9 of Ch. 329,
27 L. 1983, with the MCA section number under which it was
28 codified -- 50-5-309. The amendment also corrects an
29 apparent wrong choice of wording in (4) by substituting
30 "applicant" for "application".

31 Section 4. 50-37-102. This section and sections 5 and
32 6 of the bill remove inconsistencies in the laws controlling
33 fireworks. Presently, the State Fire Marshal or the
34 governing body of a city, town, or county is authorized
35 under 50-37-107 to grant permits for supervised public
36 displays of fireworks. However, references to the State Fire
37 Marshal and these governing bodies is inconsistent within
38 the chapter on fireworks. In 50-37-102(1) the word
39 "municipality" is used to refer to those entities issuing
40 permits for fireworks displays in declaring that the
41 provisions of the fireworks chapter of Title 50, MCA, does
42 not prohibit the sale of fireworks to the permitholder. The
43 proposed amendment would replace this underinclusive
44 reference, "holding a permit from any municipality", with

THIRD READING

1 the language, "holding a permit issued under 50-37-107."

2 Section 5. 50-37-107. Even within this section, which
3 enumerates supervising entities for fireworks displays,
4 there are inconsistent references to those authorized to
5 grant permits. The proposed amendments would provide
6 accuracy in references that presently has been sacrificed in
7 the interest of brevity. Subsections (2)(a) and (2)(b) have
8 been changed so that each reference accurately enumerates
9 the State Fire Marshal or the governing body of the city,
10 town, or county. Subsection (5) is being deleted since the
11 above changes render obsolete the incomplete attempt of this
12 subsection to remedy the problem of inconsistent references.
13 Subsection (6) includes neither the state fire marshal nor
14 governing bodies of counties.

15 Section 6. 50-37-108. The amendments to this section
16 remove inconsistencies as explained under sections 4 and 5
17 above. Also, "deemed" is changed to "considered" for uniform
18 language style.

19 Section 7. 50-38-106. This amendment changes
20 "penitentiary" to "state prison" for uniformity in language
21 throughout the code.

22 Section 8. 50-60-101. This change is explained by
23 compiler's comments to the code which state: "Reference to
24 Council Apparently in Error: Chapter 226, L. 1974, was
25 entitled: "An act for the general revision of the laws
26 relating to the state building code." The act repealed
27 former 69-2106, R.C.M. 1947, which had established the State
28 Building Code Council and transferred most of the Council's
29 functions to the Department of Administration. Sections 11
30 and 12 of Ch. 226 provided for the substitution of
31 "department of administration" for "council" in several code
32 sections. However, the reference to "council" in
33 69-2105(12), R.C.M. 1947 (predecessor to 50-60-101(9)(b)),
34 was not changed to "department of administration" because,
35 in what appears to have been an oversight, 69-2105, R.C.M.
36 1947, was not listed in Ch. 226, section 11 or 12, as a
37 section in which this change was to be made."

38 Section 9. 50-63-305. The last sentence of section
39 50-63-305 sets forth a penalty for violating an oath
40 administered by the fire marshal in an investigative
41 proceeding. The penalty is superseded by the more detailed
42 provisions of the criminal code that distinguish among
43 perjury (45-7-201), false swearing (45-7-202), and unsworn
44 falsification to authorities (45-7-203). The penalty
45 provision is deleted from 50-63-305 to remove the conflict

1 created by the provision's statement that "false
2 swearing . . . is perjury and shall be punished as such."

3 Section 10. 53-2-706. In subsection (2)(b) deleted
4 brackets around a reference to Title 29 of the CFR
5 pertaining to appeal for redress under the WIN adjudication
6 process. The citation to the appropriate Title of the CFR
7 was erroneously omitted in Sec. 6, Ch. 390, L. 1981, from
8 which 53-2-706 derives.

9 Section 11. 53-30-205. This amendment changes
10 Department of Natural Resources and Conservation to the
11 Department of State Lands in order to conform to the
12 transfer in forestry functions accomplished by Ch. 529, L.
13 1981.

14 Section 12. 60-2-202. In subsection (1) changed "the
15 capitol" to "Helena" since the Department of Highways does
16 not have its office in the capitol.

17 Section 13. 61-3-701. In subsection (1), changed an
18 internal reference from "15-8-201 through 15-8-203" to
19 "15-8-201, 15-8-202," since 15-8-203 was repealed by Sec.
20 30, Ch. 712, L. 1979.

21 Section 14. 61-3-431. In subsection (1), changed an
22 internal reference from "61-1-104(2)" to "61-1-104" since
23 subsection (2) was deleted by Sec. 4, Ch. 421, L. 1979.

24 Section 15. Repealer.

25 A. 50-39-201 through 50-39-203. These three sections
26 address requirements for standardization of firehose
27 couplings and hydrant fittings. They were enacted in 1929
28 and have not been amended. The provisions are now obsolete
29 because of present manufacturing in conformity with national
30 standards and other reasons set forth in a letter of support
31 of repealer on file in the Legislative Council office from
32 the State Fire Marshal.

33 B. 53-24-205. This section designates the Department of
34 Institutions as the single state agency for the
35 administration of federal programs under two laws that were
36 repealed in 1981:

37 (1) the Drug Abuse Office and Treatment Act of 1972,
38 P.L. 92-255, as amended, 21 U.S.C. section 1176 (repealed by
39 P.L. 97-24, Title IX, section 969(a), Aug. 13, 1981, 95
40 Stat. 595); and

41 (2) the Comprehensive Alcohol Abuse and Alcoholism
42 Prevention, Treatment, and Rehabilitation Act of 1970, P. L.
43 91-616, as amended, 42 U.S.C. section 4573 (repealed by P.L.
44 97-35, Title IX, section 962(b), Aug. 13, 1981, 95 Stat.

1 593.
2 The repealer does not affect the status of the
3 Department of Institutions' authority to apply for and
4 receive grants, allotments, or allocations of funds or other
5 assistance for purposes pertaining to the problems of
6 chemical dependency under federal law as section 53-24-206,
7 MCA, declares.
8 There is a letter supporting this repealer from the
9 Department of Institutions to the Code Commissioner on file
10 in the Legislative Council office.

1 SENATE BILL NO. 16
 2 INTRODUCED BY KOLSTAD
 3 BY REQUEST OF THE CODE COMMISSIONER
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY LAWS RELATING TO HEALTH, SOCIAL SERVICES, AND
 7 TRANSPORTATION; AMENDING SECTIONS 50-5-226, 50-5-301,
 8 50-5-302, 50-37-102, 50-37-107, 50-37-108, 50-38-106,
 9 50-60-101, 50-63-305, 53-2-706, 53-30-205, 60-2-202,
 10 61-3-701, AND 61-3-431, MCA; AND REPEALING SECTIONS
 11 ~~50-39-201 THROUGH 50-39-203~~ AND SECTION 53-24-205, MCA."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 Section 1. Section 50-5-226, MCA, is amended to read:
 15 "50-5-226. Placement in personal-care facilities. (1)
 16 A personal-care facility may not have as a resident a person
 17 who is:
 18 (a) in need of medical or physical restraints;
 19 (b) nonambulatory or bedridden;
 20 (c) totally incontinent; or
 21 (d) less than 18 years of age.
 22 (2) The department shall, in consultation with the
 23 department of social and rehabilitation services, provide by
 24 rule:
 25 (a) an application or placement procedure informing a

1 prospective resident and, if applicable, his physician of:
 2 (i) physical and mental standards for residents of
 3 personal-care facilities;
 4 (ii) requirements for placement in a facility with a
 5 higher standard of care if a resident's condition
 6 deteriorates; and
 7 (iii) the services offered by the facility and services
 8 that a resident may receive from third-party providers while
 9 resident in the facility;
 10 (b) standards to be used by a facility and, if
 11 appropriate, by a screening agency to screen residents and
 12 prospective residents to prevent residence by persons
 13 prohibited by subsection (1);
 14 (c) a method by which the results of any screening
 15 decision made pursuant to rules established under subsection
 16 ~~(1)~~ (2)(b) may be appealed by the facility operator or by or
 17 on behalf of a resident or prospective resident."
 18 Section 2. Section 50-5-301, MCA, is amended to read:
 19 "50-5-301. (Temporary) When certificate of need is
 20 required. (1) Unless a person has submitted an application
 21 for and is the holder of a certificate of need granted by
 22 the department, he may not initiate any of the following:
 23 (a) the incurring of an obligation by or on behalf of
 24 a health care facility for any capital expenditure, other
 25 than to acquire an existing health care facility, that

1 exceeds the expenditure thresholds established in or
 2 pursuant to subsection (5). The costs of any studies,
 3 surveys, designs, plans, working drawings, specifications,
 4 and other activities (including staff effort and consulting
 5 and other services) essential to the acquisition,
 6 improvement, expansion, or replacement of any plant or
 7 equipment with respect to which an expenditure is made must
 8 be included in determining if the expenditure exceeds the
 9 expenditure thresholds.

10 (b) a change in the bed capacity of a health care
 11 facility by 10 beds or 10%, whichever is less, in any 2-year
 12 period through:

13 (i) an increase or decrease in the total number of
 14 beds;

15 (ii) a redistribution of beds among various categories;
 16 or

17 (iii) a relocation of beds from one physical facility
 18 or site to another;

19 (c) the addition of a health service that is offered
 20 by or on behalf of a health care facility which was not
 21 offered by or on behalf of the facility within the 12-month
 22 period before the month in which the service would be
 23 offered and which will result in additional annual operating
 24 and amortization expenses of \$100,000 or more;

25 (d) the acquisition by any person of major medical

1 equipment, provided such acquisition would have required a
 2 certificate of need pursuant to subsection (1)(a) or (1)(c)
 3 of this section if it had been made by or on behalf of a
 4 health care facility;

5 (e) the incurring of an obligation for a capital
 6 expenditure by any person to acquire an existing health care
 7 facility if:

8 (i) the person has failed to submit the notice of
 9 intent required by ~~50-5-302(3)~~{50-5-302(2)}; or

10 (ii) the department finds within 30 days after it
 11 receives the notice of intent required by 50-5-302(3) that
 12 the acquisition will result in a change in the services or
 13 bed capacity of the facility;

14 (f) the construction, development, or other
 15 establishment of a health care facility which did not
 16 previously exist or which is being replaced; or

17 (g) the expansion of the geographical service area of
 18 a home health agency.

19 (2) For purposes of this section:

20 (a) "obligation for capital expenditure" does not
 21 include the authorization of bond sales or the offering or
 22 sale of bonds pursuant to the state long-range building
 23 program under Title 17, chapter 5, part 4, and Title 18,
 24 chapter 2, part 1;

25 (b) a health maintenance organization is to be

1 considered a health care facility except to the extent
2 exempted from certificate of need requirements as prescribed
3 in rules adopted by the department.

4 (3) A proposed change in a project associated with a
5 capital expenditure under subsection (1)(a) or (1)(b) for
6 which the department has previously issued a certificate of
7 need requires subsequent certificate of need review if the
8 change is proposed within 1 year after the date the activity
9 for which the capital expenditure was granted a certificate
10 of need is undertaken. As used in this subsection, a "change
11 in project" includes but is not limited to any change in the
12 bed capacity of a health care facility as described in
13 subsection (1)(b) and the addition or termination of a
14 health care service.

15 (4) If a person acquires an existing health care
16 facility without a certificate of need and proposes to
17 change, within 1 year after the acquisition, the services or
18 bed capacity of the health care facility, the proposed
19 change requires a certificate of need if one would have been
20 required originally under subsection (1)(e).

21 (5) (a) Expenditure thresholds for certificate of need
22 review are established as follows:

23 (i) For acquisition of equipment, the expenditure
24 threshold is \$500,000.

25 (ii) For construction of health care facilities, the

1 expenditure threshold is \$750,000.

2 (b) The department may by rule establish thresholds
3 higher than those established in subsection (5)(a) if
4 necessary and appropriate to accomplish the objectives of
5 this part. (Repealed effective July 1, 1987--sec. 13, Ch.
6 329, L. 1983.)"

7 Section 3. Section 50-5-302, MCA, is amended to read:

8 "50-5-302. (Temporary) Notice of intent -- application
9 and review process. (1) The department may adopt rules
10 including but not limited to rules for:

11 (a) the form and content of notices of intent and
12 applications;

13 (b) the scheduling and consolidation of reviews of
14 similar proposals;

15 (c) the abbreviated review of a proposal that:

16 (i) does not significantly affect the cost or use of
17 health care;

18 (ii) is necessary to eliminate or prevent imminent
19 safety hazards or to repair or replace a facility damaged or
20 destroyed as a result of fire, storm, civil disturbance, or
21 any act of God;

22 (iii) is necessary to comply with licensure or
23 certification standards; or

24 (iv) has been approved by the legislature pursuant to
25 the long-range building program under Title 17, chapter 5,

1 part 4, and Title 18, chapter 2, part 1, providing the
 2 legislative findings accompanying such approval give
 3 consideration to the criteria of 50-5-304, and subject to
 4 the provisions of ~~{section-9}~~ 50-5-309;

5 (d) the format of public informational hearings and
 6 reconsideration hearings; and

7 (e) the establishment of batching periods for
 8 certificate of need applications for new beds, establishment
 9 of new services, and replacement of health care facilities.

10 (2) At least 30 days before any person acquires or
 11 enters into a contract to acquire an existing health care
 12 facility, the person shall submit to the department and the
 13 appropriate health systems agency a notice of his intent to
 14 acquire the facility and of the services to be offered in
 15 the facility and its bed capacity.

16 (3) Any person intending to initiate an activity for
 17 which a certificate of need is required shall submit a
 18 letter of intent to the department. The letter of intent
 19 must be placed in the appropriate batch, if any. After
 20 expiration of the challenge period following the batching
 21 period in which the letter of intent was submitted or, if no
 22 batching is required, after receipt of the letter of intent,
 23 the department shall send the person an application form
 24 requiring the submission of information considered necessary
 25 by the department to determine if the proposed activity

1 meets the standards in 50-5-304.

2 (4) Within 15 calendar days after receipt of the
 3 application, the department shall determine whether it is
 4 complete. If, after the 15 days, the application is found
 5 incomplete, the department shall request the necessary
 6 additional information within 5 working days. Upon receipt
 7 of the additional information from the ~~applicant~~
 8 ~~{applicant}~~, the department shall have 15 days to determine
 9 if the application is complete. If the department fails to
 10 make a determination as to the completeness of the
 11 application within the prescribed 15-day period, the
 12 application shall be deemed to be complete. If the
 13 applicant fails to submit the necessary additional
 14 information requested by the department by the deadline as
 15 prescribed by department rules for considering such reviews,
 16 a new letter of intent and application must be submitted and
 17 the application will be dropped from the current batch.

18 (5) After all applications in the current batch have
 19 been designated complete or, if an application does not
 20 require batching, after it is designated complete,
 21 notification must be sent to the applicants and all other
 22 affected persons regarding the department's projected time
 23 schedule for review of the applications. The review period
 24 for an application may be no longer than 90 calendar days
 25 after the notice is sent unless a longer period is agreed to

1 by the applicant or, if the application has been batched, by
 2 all applicants in the batch. All completed applications
 3 pertaining to similar types of services, facilities, or
 4 equipment affecting the same health service area may be
 5 considered in relation to each other. During the review
 6 period a public hearing may be held if requested by an
 7 affected person or when considered appropriate by the
 8 department.

9 (6) The department shall, after considering all
 10 comments received during the review period, issue a
 11 certificate of need, with or without conditions, or deny the
 12 application. The department shall notify the applicant and
 13 affected persons of its decision within 5 working days after
 14 expiration of the review period. If the department fails to
 15 reach a decision and notify the applicant of its decision
 16 within the deadlines established in this section and if that
 17 delay constitutes an abuse of the department's discretion,
 18 the applicant may apply to district court for a writ of
 19 mandamus to force the department to render a decision.
 20 (Repealed effective July 1, 1987--sec. 13, Ch. 329, L.
 21 1983.)"

22 Section 4. Section 50-37-102, MCA, is amended to read:
 23 "50-37-102. Where chapter not to apply. (1) Nothing in
 24 this chapter shall be construed to prohibit the sale of any
 25 kind of fireworks to a person holding a permit from--any

1 municipality issued under 50-37-107 at the display covered
 2 by such permits, the use of fireworks by railroads or other
 3 transportation agencies for signal purposes or illumination
 4 or when used in quarrying or blasting or other industrial
 5 use, or the sale or use of blank cartridges for a show or
 6 theater, for signal or ceremonial purposes in athletics or
 7 sports, or for use by military organizations or
 8 organizations composed of veterans of the United States
 9 armed forces.

10 (2) This chapter does not apply to toy paper caps
 11 containing less than one-fourth of a grain of explosive
 12 composition per cap, to the manufacture, storage, sale, or
 13 use of signals necessary for the safe operation of railroads
 14 or other classes of public or private transportation, to the
 15 military or naval forces of the United States or this state,
 16 to peace officers, or to the sale or use of blank cartridges
 17 for ceremonial, theatrical, or athletic events."

18 Section 5. Section 50-37-107, MCA, is amended to read:
 19 "50-37-107. Supervised public display of fireworks
 20 authorized. (1) The state fire marshal or the governing body
 21 of a city, town, or county may, under reasonable rules
 22 adopted by them, grant permits for supervised public
 23 displays of fireworks to be held by municipalities, fair
 24 associations, amusement parks, and other organizations or
 25 groups of individuals.

1 (2) Each display shall:

2 (a) be handled by a competent operator, who must be
3 approved by the state fire marshal or the governing body of
4 the municipality city, town, or county in which the display
5 is to be held; and

6 (b) be located, discharged, or fired as, in the
7 opinion of the state fire marshal or the chief of the fire
8 department or other officer designated by the governing body
9 of the municipality city, town, or county after proper
10 inspection, not to be hazardous to persons or property.

11 (3) Application for permits shall be made in writing
12 at least 15 days prior to the date of the display.

13 (4) After the privilege has been granted, sales,
14 possession, use, and distribution of fireworks for the
15 display are lawful for that purpose only.

16 (5) No permit granted under this section is
17 transferable.

18 ~~(6) The term "municipalities" includes cities and~~
19 ~~incorporated towns.~~

20 Section 6. Section 50-37-108, MCA, is amended to read:

21 "50-37-108. Damage indemnity bond required for public
22 display. The state fire marshal or the governing body of the
23 municipality city, town, or county shall require a bond
24 deemed considered adequate by the municipality state fire
25 marshal or governing body from the licensee in a sum not

1 less than \$500, conditioned for the payment of all damages
2 which may be caused either to a person or persons or to
3 property by reason of the licensed display and arising from
4 any acts of the licensee, his agents, employees, or
5 subcontractors."

6 Section 7. Section 50-38-106, MCA, is amended to read:

7 "50-38-106. General penalty. Any person or association
8 of persons violating any of the provisions of this chapter
9 shall be punished by imprisonment in the penitentiary state
10 prison not exceeding 5 years, by fine not exceeding \$5,000,
11 or by both such fine and imprisonment."

12 Section 8. Section 50-60-101, MCA, is amended to read:

13 "50-60-101. Definitions. As used in parts 1 through 4
14 and part 7 of this chapter, unless the context requires
15 otherwise, the following definitions apply:

16 (1) "Building" means a combination of any materials,
17 whether mobile, portable, or fixed, to form a structure and
18 the related facilities for the use or occupancy by persons
19 or property. The word "building" shall be construed as
20 though followed by the words "or part or parts thereof".

21 (2) "Building regulations" means any law, rule,
22 resolution, regulation, ordinance, or code, general or
23 special, or compilation thereof enacted or adopted by the
24 state or any municipality, including departments, boards,
25 bureaus, commissions, or other agencies of the state or a

1 municipality relating to the design, construction,
2 reconstruction, alteration, conversion, repair, inspection,
3 or use of buildings and installation of equipment in
4 buildings. The term does not include zoning ordinances.

5 (3) "Construction" means the original construction and
6 equipment of buildings and requirements or standards
7 relating to or affecting materials used, including
8 provisions for safety and sanitary conditions.

9 (4) "Department" means the department of
10 administration provided for in Title 2, chapter 15, part 10.

11 (5) "Equipment" means plumbing, heating, electrical,
12 ventilating, air conditioning, and refrigerating equipment,
13 elevators, dumbwaiters, escalators, and other mechanical
14 additions or installations.

15 (6) "Local building department" means the agency or
16 agencies of any municipality charged with the
17 administration, supervision, or enforcement of building
18 regulations, approval of plans, inspection of buildings, or
19 the issuance of permits, licenses, certificates, and similar
20 documents prescribed or required by state or local building
21 regulations.

22 (7) "Local legislative body" means the council or
23 commission charged with governing the municipality.

24 (8) "Municipality" means any incorporated city or town
25 and its jurisdictional area as defined by subsection (9) of

1 this section.

2 (9) (a) "Municipal jurisdictional area" means the area
3 within the limits of an incorporated municipality unless the
4 area is extended at the written request of a municipality.

5 (b) Upon request, the council ~~is~~ department may approve
6 extension of the jurisdictional area to include:

7 (i) all or part of the area within 4 1/2 miles of the
8 corporate limits of a municipality;

9 (ii) all of any platted subdivision which is partially
10 within 4 1/2 miles of the corporate limits of a
11 municipality; and

12 (iii) all of any zoning district adopted pursuant to
13 Title 76, chapter 2, part 1 or 2, which is partially within
14 4 1/2 miles of the corporate limits of a municipality.

15 (c) Distances shall be measured in a straight line in
16 a horizontal plane.

17 (10) "Owner" means the owner or owners of the premises
18 or lesser estate, a mortgagee or vendee in possession,
19 assignee of rents, receiver, executor, trustee, lessee, or
20 other person, firm, or corporation in control of a building.

21 (11) "Recreational vehicle" means anything defined as a
22 recreational vehicle in the edition of NFPA No. 501C or ANSI
23 All9.2 most recently adopted by the state in accordance with
24 50-60-401.

25 (12) "State agency" means any state officer,

1 department, board, bureau, commission, or other agency of
2 this state.

3 (13) "State building code" means the state building
4 code provided for in 50-60-203 or any portion of the code of
5 limited application and any of its modifications or
6 amendments."

7 Section 9. Section 50-63-305, MCA, is amended to read:

8 "50-63-305. Fire marshal authorized to administer
9 oaths. For the purpose of this chapter, the state fire
10 marshal or a deputy fire marshal is authorized to administer
11 an oath to a person appearing as a witness in a proceeding
12 investigating a violation of the laws relating to fires.
13 ~~False--swearing-in-such-a-proceeding-is-perjury-and-shall-be~~
14 ~~punished-as-such--"~~

15 Section 10. Section 53-2-706, MCA, is amended to read:

16 "53-2-706. Disqualification from public assistance --
17 right of appeal. (1) If the departments or their authorized
18 designees determine that a person required to participate in
19 the program has failed or refused to do so or has failed to
20 comply with the rules established under 53-2-707, that
21 person, upon written notice by one of the departments or its
22 authorized designee, shall be disqualified from receiving
23 AFDC payments. The termination of AFDC payments for any
24 person may not affect AFDC payments or any other form of
25 public assistance received by other members of the same

1 household.

2 (2) Upon written notification of disqualification, an
3 affected person may appeal to:

4 (a) the board for a fair hearing, pursuant to Title
5 53, chapter 2, part 6; or

6 (b) the department of labor and industry for redress
7 under the WIN adjudication process, pursuant to {29} CFR
8 part 56 and 45 CFR part 1398."

9 Section 11. Section 53-30-205, MCA, is amended to
10 read:

11 "53-30-205. Youth forest camps and work programs. In
12 the case of a youth forest camp, a work program shall be
13 provided by the department of ~~natural--resources--and~~
14 ~~conservation state lands~~ and shall be carried out with
15 cooperation between that department and the camp
16 superintendent."

17 Section 12. Section 60-2-202, MCA, is amended to read:

18 "60-2-202. Duties of department. The department shall:

19 (1) maintain and preserve the records of the
20 commission in its office at ~~the capitol~~ Helena;

21 (2) file and preserve copies of all plans,
22 specifications, contracts, estimates, and official acts
23 taken by it or by the commission;

24 (3) prepare and submit to the governor on or before
25 the 15th day of each month a report of work constructed,

1 under construction, and proposed for construction; the
 2 progress made during the preceding month; and
 3 recommendations for improvements and their estimated costs."

4 Section 13. Section 61-3-701, MCA, is amended to read:

5 "61-3-701. Foreign vehicles used in gainful occupation
 6 to be registered -- reciprocity. (1) Before any foreign
 7 licensed motor vehicle may be operated on the highways of
 8 this state for hire, compensation, or profit or before the
 9 owner and/or user thereof uses the vehicle if such owner
 10 and/or user is engaged in gainful occupation or business
 11 enterprise in the state, including highway work, the owner
 12 of the vehicle shall make application to a county treasurer
 13 for registration upon an application form furnished by the
 14 division. Upon satisfactory evidence of ownership submitted
 15 to the county treasurer and the payment of property taxes,
 16 if appropriate, as required by 15-8-201, ~~through-15-8-203~~
 17 15-8-202, or 15-24-301 or the payment of the light vehicle
 18 license fee as provided by 61-3-532, the treasurer shall
 19 accept the application for registration and shall collect
 20 the regular license fee required for the vehicle.

21 (2) The treasurer shall thereupon issue to the
 22 applicant a copy of the application certificate entitled
 23 "Owner's Certificate of Registration and Payment Receipt"
 24 and forward a duplicate copy of the certificate to the
 25 division. The treasurer shall at the same time issue to the

1 applicant the proper license plates or other identification
 2 markers, which shall at all times be displayed upon the
 3 vehicle when operated or driven upon roads and highways of
 4 this state during the period of the life of the license.

5 (3) The registration receipt shall not constitute
 6 evidence of ownership but shall be used only for
 7 registration purposes. No Montana certificate of ownership
 8 shall be issued for this type of registration.

9 (4) This section is not applicable to any vehicle
 10 covered by a valid and existing reciprocal agreement or
 11 declaration entered into under the provisions of the laws of
 12 Montana."

13 Section 14. Section 61-3-431, MCA, is amended to read:

14 "61-3-431. Special mobile equipment -- exemption from
 15 registration and payment of fees and charges --
 16 identification plate -- publicly owned special mobile
 17 equipment. (1) A person, firm, partnership, or corporation
 18 who owns, leases, or rents special mobile equipment as
 19 defined in 61-1-104(2) and occasionally moves that equipment
 20 on, over, or across the highways of the state is not subject
 21 to registration of that equipment or required to pay the
 22 fees and charges provided for in 61-3-502, 61-4-301 through
 23 61-4-308, or part 2 of chapter 10. Prior to movement on the
 24 highways, however, each piece of equipment shall display an
 25 equipment identification plate or a dealer's license plate

1 attached to the equipment.

2 (2) Annual application for the identification plate
3 shall be made to the county treasurer before any piece of
4 equipment is moved on the highways. Application shall be
5 made on a form furnished by the department of justice,
6 together with the payment of a fee of \$5. The equipment for
7 which a special mobile equipment plate is sought is subject
8 to the assessment of personal property taxes on the date
9 application is made for the plate. The personal property
10 taxes assessed against the special mobile equipment must be
11 paid before the issuance of a special mobile equipment
12 plate. The fees collected under this section belong to the
13 county road fund.

14 (3) The identification plate expires on December 31 of
15 each year. If the expired identification plate is displayed,
16 an owner of special mobile equipment registered under the
17 provisions of this section is entitled to operate the
18 equipment between January 1 and February 15 following
19 expiration without displaying the identification plate or
20 receipt of the current year.

21 (4) Publicly owned special mobile equipment, and
22 implements of husbandry used exclusively by an owner in the
23 conduct of his own farming operations, are exempt from this
24 section."

25 NEW SECTION. Section 15. Repealer. Sections-50-39-201

1 through--50-39-203--and SECTION 53-24-205, MCA, are IS
2 repealed.

-End-

1 SENATE BILL NO. 16

2 AN ACT TO GENERALLY REVISE AND CLARIFY LAWS RELATING TO
3 HEALTH, SOCIAL SERVICES, AND TRANSPORTATION; AMENDING
4 SECTIONS 50-5-226, 50-5-301, 50-5-302, 50-37-102, 50-37-107,
5 50-37-108, 50-38-106, 50-60-101, 50-63-305, 53-2-706,
6 53-30-205, 60-2-202, 61-3-701, AND 61-3-431, MCA; AND
7 REPEALING SECTIONS 50-39-201 THROUGH 50-39-203 AND
8 53-24-205, MCA.

9 Section 1. 50-5-226. This amendment changes an
10 erroneous internal citation contained within the health care
11 facility licensing law. Section 50-5-226(2)(c) requires the
12 Department of Health and Environmental Sciences to provide
13 an appeal procedure for screening decisions made pursuant to
14 rules established under subsection (1)(b) of that statute.
15 The correct internal reference is to subsection (2)(b) of
16 that statute, which addresses screening standards to be
17 adopted by rule.

18 Section 2. 50-5-301. This amendment changes an
19 erroneous internal citation contained within the health care
20 facility certificate of need law. Section 50-5-301(1)(e)(i)
21 makes reference to a notice of intent required by
22 50-5-302(3). In fact, though, subsection (2) of 50-5-302
23 contains the requirement of a notice of intent before
24 acquiring an existing health care facility.

25 Section 3. 50-5-302. This amendment replaces a
26 bracketed reference in (1)(c)(iv) to section 9 of Ch. 329,
27 L. 1983, with the MCA section number under which it was
28 codified -- 50-5-309. The amendment also corrects an
29 apparent wrong choice of wording in (4) by substituting
30 "applicant" for "application".

31 Section 4. 50-37-102. This section and sections 5 and
32 6 of the bill remove inconsistencies in the laws controlling
33 fireworks. Presently, the State Fire Marshal or the
34 governing body of a city, town, or county is authorized
35 under 50-37-107 to grant permits for supervised public
36 displays of fireworks. However, references to the State Fire
37 Marshal and these governing bodies is inconsistent within
38 the chapter on fireworks. In 50-37-102(1) the word
39 "municipality" is used to refer to those entities issuing
40 permits for fireworks displays in declaring that the
41 provisions of the fireworks chapter of Title 50, MCA, does
42 not prohibit the sale of fireworks to the permitholder. The
43 proposed amendment would replace this underinclusive
44 reference, "holding a permit from any municipality", with

1 the language, "holding a permit issued under 50-37-107."

2 Section 5. 50-37-107. Even within this section, which
3 enumerates supervising entities for fireworks displays,
4 there are inconsistent references to those authorized to
5 grant permits. The proposed amendments would provide
6 accuracy in references that presently has been sacrificed in
7 the interest of brevity. Subsections (2)(a) and (2)(b) have
8 been changed so that each reference accurately enumerates
9 the State Fire Marshal or the governing body of the city,
10 town, or county. Subsection (5) is being deleted since the
11 above changes render obsolete the incomplete attempt of this
12 subsection to remedy the problem of inconsistent references.
13 Subsection (6) includes neither the state fire marshal nor
14 governing bodies of counties.

15 Section 6. 50-37-108. The amendments to this section
16 remove inconsistencies as explained under sections 4 and 5
17 above. Also, "deemed" is changed to "considered" for uniform
18 language style.

19 Section 7. 50-38-106. This amendment changes
20 "penitentiary" to "state prison" for uniformity in language
21 throughout the code.

22 Section 8. 50-60-101. This change is explained by
23 compiler's comments to the code which state: "Reference to
24 Council Apparently in Error: Chapter 226, L. 1974, was
25 entitled: "An act for the general revision of the laws
26 relating to the state building code." The act repealed
27 former 69-2106, R.C.M. 1947, which had established the State
28 Building Code Council and transferred most of the Council's
29 functions to the Department of Administration. Sections 11
30 and 12 of Ch. 226 provided for the substitution of
31 "department of administration" for "council" in several code
32 sections. However, the reference to "council" in
33 69-2105(12), R.C.M. 1947 [predecessor to 50-60-101(9)(b)],
34 was not changed to "department of administration" because,
35 in what appears to have been an oversight, 69-2105, R.C.M.
36 1947, was not listed in Ch. 226, section 11 or 12, as a
37 section in which this change was to be made."

38 Section 9. 50-63-305. The last sentence of section
39 50-63-305 sets forth a penalty for violating an oath
40 administered by the fire marshal in an investigative
41 proceeding. The penalty is superseded by the more detailed
42 provisions of the criminal code that distinguish among
43 perjury (45-7-201), false swearing (45-7-202), and unsworn
44 falsification to authorities (45-7-203). The penalty
45 provision is deleted from 50-63-305 to remove the conflict

1 created by the provision's statement that "false
2 swearing . . . is perjury and shall be punished as such."

3 Section 10. 53-2-706. In subsection (2)(b) deleted
4 brackets around a reference to Title 29 of the CFR
5 pertaining to appeal for redress under the WIN adjudication
6 process. The citation to the appropriate Title of the CFR
7 was erroneously omitted in Sec. 6, Ch. 390, L. 1981, from
8 which 53-2-706 derives.

9 Section 11. 53-30-205. This amendment changes
10 Department of Natural Resources and Conservation to the
11 Department of State Lands in order to conform to the
12 transfer in forestry functions accomplished by Ch. 529, L.
13 1981.

14 Section 12. 60-2-202. In subsection (1) changed "the
15 capitol" to "Helena" since the Department of Highways does
16 not have its office in the capitol.

17 Section 13. 61-3-701. In subsection (1), changed an
18 internal reference from "15-8-201 through 15-8-203" to
19 "15-8-201, 15-8-202," since 15-8-203 was repealed by Sec.
20 30, Ch. 712, L. 1979.

21 Section 14. 61-3-431. In subsection (1), changed an
22 internal reference from "61-1-104(2)" to "61-1-104" since
23 subsection (2) was deleted by Sec. 4, Ch. 421, L. 1979.

24 Section 15. Repealer.

25 A. 50-39-201 through 50-39-203. These three sections
26 address requirements for standardization of firehose
27 couplings and hydrant fittings. They were enacted in 1929
28 and have not been amended. The provisions are now obsolete
29 because of present manufacturing in conformity with national
30 standards and other reasons set forth in a letter of support
31 of repealer on fire in the Legislative Council office from
32 the State Fire Marshal.

33 B. 53-24-205. This section designates the Department of
34 Institutions as the single state agency for the
35 administration of federal programs under two laws that were
36 repealed in 1981:

37 (1) the Drug Abuse Office and Treatment Act of 1972,
38 P.L. 92-255, as amended, 21 U.S.C. section 1176 (repealed by
39 P.L. 97-24, Title IX, section 969(a), Aug. 13, 1981, 95
40 Stat. 595); and

41 (2) the Comprehensive Alcohol Abuse and Alcoholism
42 Prevention, Treatment, and Rehabilitation Act of 1970, P. L.
43 91-616, as amended, 42 U.S.C. section 4573 (repealed by P.L.
44 97-35, Title IX, section 962(b), Aug. 13, 1981, 95 Stat.

1 593.

2 The repealer does not affect the status of the
3 Department of Institutions' authority to apply for and
4 receive grants, allotments, or allocations of funds or other
5 assistance for purposes pertaining to the problems of
6 chemical dependency under federal law as section 53-24-206,
7 MCA, declares.

8 There is a letter supporting this repealer from the
9 Department of Institutions to the Code Commissioner on file
10 in the Legislative Council office.

1 SENATE BILL NO. 16
 2 INTRODUCED BY KOLSTAD
 3 BY REQUEST OF THE CODE COMMISSIONER
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY LAWS RELATING TO HEALTH, SOCIAL SERVICES, AND
 7 TRANSPORTATION; AMENDING SECTIONS 50-5-226, 50-5-301,
 8 50-5-302, 50-37-102, 50-37-107, 50-37-108, 50-38-106,
 9 50-60-101, 50-63-305, 53-2-706, 53-30-205, 60-2-202,
 10 61-3-701, AND 61-3-431, MCA; AND REPEALING SECTIONS
 11 ~~50-39-201 THROUGH 50-39-203~~ AND SECTION 53-24-205, MCA."
 12

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

14 Section 1. Section 50-5-226, MCA, is amended to read:
 15 "50-5-226. Placement in personal-care facilities. (1)
 16 A personal-care facility may not have as a resident a person
 17 who is:

- 18 (a) in need of medical or physical restraints;
- 19 (b) nonambulatory or bedridden;
- 20 (c) totally incontinent; or
- 21 (d) less than 18 years of age.

22 (2) The department shall, in consultation with the
 23 department of social and rehabilitation services, provide by
 24 rule:

- 25 (a) an application or placement procedure informing a

- 1 prospective resident and, if applicable, his physician of:
- 2 (i) physical and mental standards for residents of
- 3 personal-care facilities;
- 4 (ii) requirements for placement in a facility with a
- 5 higher standard of care if a resident's condition
- 6 deteriorates; and
- 7 (iii) the services offered by the facility and services
- 8 that a resident may receive from third-party providers while
- 9 resident in the facility;
- 10 (b) standards to be used by a facility and, if
- 11 appropriate, by a screening agency to screen residents and
- 12 prospective residents to prevent residence by persons
- 13 prohibited by subsection (1);
- 14 (c) a method by which the results of any screening
- 15 decision made pursuant to rules established under subsection
- 16 ~~(i)~~ (2)(b) may be appealed by the facility operator or by or
- 17 on behalf of a resident or prospective resident."

18 Section 2. Section 50-5-301, MCA, is amended to read:
 19 "50-5-301. (Temporary) When certificate of need is
 20 required. (1) Unless a person has submitted an application
 21 for and is the holder of a certificate of need granted by
 22 the department, he may not initiate any of the following:

- 23 (a) the incurring of an obligation by or on behalf of
- 24 a health care facility for any capital expenditure, other
- 25 than to acquire an existing health care facility, that

1 exceeds the expenditure thresholds established in or
 2 pursuant to subsection (5). The costs of any studies,
 3 surveys, designs, plans, working drawings, specifications,
 4 and other activities (including staff effort and consulting
 5 and other services) essential to the acquisition,
 6 improvement, expansion, or replacement of any plant or
 7 equipment with respect to which an expenditure is made must
 8 be included in determining if the expenditure exceeds the
 9 expenditure thresholds.

10 (b) a change in the bed capacity of a health care
 11 facility by 10 beds or 10%, whichever is less, in any 2-year
 12 period through:

13 (i) an increase or decrease in the total number of
 14 beds;

15 (ii) a redistribution of beds among various categories;

16 or

17 (iii) a relocation of beds from one physical facility
 18 or site to another;

19 (c) the addition of a health service that is offered
 20 by or on behalf of a health care facility which was not
 21 offered by or on behalf of the facility within the 12-month
 22 period before the month in which the service would be
 23 offered and which will result in additional annual operating
 24 and amortization expenses of \$100,000 or more;

25 (d) the acquisition by any person of major medical

1 equipment, provided such acquisition would have required a
 2 certificate of need pursuant to subsection (1)(a) or (1)(c)
 3 of this section if it had been made by or on behalf of a
 4 health care facility;

5 (e) the incurring of an obligation for a capital
 6 expenditure by any person to acquire an existing health care
 7 facility if:

8 (i) the person has failed to submit the notice of
 9 intent required by ~~50-5-302(3)~~-~~{50-5-302(2)}~~; or

10 (ii) the department finds within 30 days after it
 11 receives the notice of intent required by 50-5-302(3) that
 12 the acquisition will result in a change in the services or
 13 bed capacity of the facility;

14 (f) the construction, development, or other
 15 establishment of a health care facility which did not
 16 previously exist or which is being replaced; or

17 (g) the expansion of the geographical service area of
 18 a home health agency.

19 (2) For purposes of this section:

20 (a) "obligation for capital expenditure" does not
 21 include the authorization of bond sales or the offering or
 22 sale of bonds pursuant to the state long-range building
 23 program under Title 17, chapter 5, part 4, and Title 18,
 24 chapter 2, part 1;

25 (b) a health maintenance organization is to be

1 considered a health care facility except to the extent
2 exempted from certificate of need requirements as prescribed
3 in rules adopted by the department.

4 (3) A proposed change in a project associated with a
5 capital expenditure under subsection (1)(a) or (1)(b) for
6 which the department has previously issued a certificate of
7 need requires subsequent certificate of need review if the
8 change is proposed within 1 year after the date the activity
9 for which the capital expenditure was granted a certificate
10 of need is undertaken. As used in this subsection, a "change
11 in project" includes but is not limited to any change in the
12 bed capacity of a health care facility as described in
13 subsection (1)(b) and the addition or termination of a
14 health care service.

15 (4) If a person acquires an existing health care
16 facility without a certificate of need and proposes to
17 change, within 1 year after the acquisition, the services or
18 bed capacity of the health care facility, the proposed
19 change requires a certificate of need if one would have been
20 required originally under subsection (1)(e).

21 (5) (a) Expenditure thresholds for certificate of need
22 review are established as follows:

23 (i) For acquisition of equipment, the expenditure
24 threshold is \$500,000.

25 (ii) For construction of health care facilities, the

1 expenditure threshold is \$750,000.

2 (b) The department may by rule establish thresholds
3 higher than those established in subsection (5)(a) if
4 necessary and appropriate to accomplish the objectives of
5 this part. (Repealed effective July 1, 1987--sec. 13, Ch.
6 329, L. 1983.)"

7 Section 3. Section 50-5-302, MCA, is amended to read:

8 "50-5-302. (Temporary) Notice of intent -- application
9 and review process. (1) The department may adopt rules
10 including but not limited to rules for:

11 (a) the form and content of notices of intent and
12 applications;

13 (b) the scheduling and consolidation of reviews of
14 similar proposals;

15 (c) the abbreviated review of a proposal that:

16 (i) does not significantly affect the cost or use of
17 health care;

18 (ii) is necessary to eliminate or prevent imminent
19 safety hazards or to repair or replace a facility damaged or
20 destroyed as a result of fire, storm, civil disturbance, or
21 any act of God;

22 (iii) is necessary to comply with licensure or
23 certification standards; or

24 (iv) has been approved by the legislature pursuant to
25 the long-range building program under Title 17, chapter 5,

1 part 4, and Title 18, chapter 2, part 1, providing the
 2 legislative findings accompanying such approval give
 3 consideration to the criteria of 50-5-304, and subject to
 4 the provisions of ~~{section-9}~~ 50-5-309;

5 (d) the format of public informational hearings and
 6 reconsideration hearings; and

7 (e) the establishment of batching periods for
 8 certificate of need applications for new beds, establishment
 9 of new services, and replacement of health care facilities.

10 (2) At least 30 days before any person acquires or
 11 enters into a contract to acquire an existing health care
 12 facility, the person shall submit to the department and the
 13 appropriate health systems agency a notice of his intent to
 14 acquire the facility and of the services to be offered in
 15 the facility and its bed capacity.

16 (3) Any person intending to initiate an activity for
 17 which a certificate of need is required shall submit a
 18 letter of intent to the department. The letter of intent
 19 must be placed in the appropriate batch, if any. After
 20 expiration of the challenge period following the batching
 21 period in which the letter of intent was submitted or, if no
 22 batching is required, after receipt of the letter of intent,
 23 the department shall send the person an application form
 24 requiring the submission of information considered necessary
 25 by the department to determine if the proposed activity

1 meets the standards in 50-5-304.

2 (4) Within 15 calendar days after receipt of the
 3 application, the department shall determine whether it is
 4 complete. If, after the 15 days, the application is found
 5 incomplete, the department shall request the necessary
 6 additional information within 5 working days. Upon receipt
 7 of the additional information from the **application**
 8 ~~{applicant}~~, the department shall have 15 days to determine
 9 if the application is complete. If the department fails to
 10 make a determination as to the completeness of the
 11 application within the prescribed 15-day period, the
 12 application shall be deemed to be complete. If the
 13 applicant fails to submit the necessary additional
 14 information requested by the department by the deadline as
 15 prescribed by department rules for considering such reviews,
 16 a new letter of intent and application must be submitted and
 17 the application will be dropped from the current batch.

18 (5) After all applications in the current batch have
 19 been designated complete or, if an application does not
 20 require batching, after it is designated complete,
 21 notification must be sent to the applicants and all other
 22 affected persons regarding the department's projected time
 23 schedule for review of the applications. The review period
 24 for an application may be no longer than 90 calendar days
 25 after the notice is sent unless a longer period is agreed to

1 by the applicant or, if the application has been batched, by
 2 all applicants in the batch. All completed applications
 3 pertaining to similar types of services, facilities, or
 4 equipment affecting the same health service area may be
 5 considered in relation to each other. During the review
 6 period a public hearing may be held if requested by an
 7 affected person or when considered appropriate by the
 8 department.

9 (6) The department shall, after considering all
 10 comments received during the review period, issue a
 11 certificate of need, with or without conditions, or deny the
 12 application. The department shall notify the applicant and
 13 affected persons of its decision within 5 working days after
 14 expiration of the review period. If the department fails to
 15 reach a decision and notify the applicant of its decision
 16 within the deadlines established in this section and if that
 17 delay constitutes an abuse of the department's discretion,
 18 the applicant may apply to district court for a writ of
 19 mandamus to force the department to render a decision.
 20 (Repealed effective July 1, 1987--sec. 13, Ch. 329, L.
 21 1983.)"

22 Section 4. Section 50-37-102, MCA, is amended to read:
 23 "50-37-102. Where chapter not to apply. (1) Nothing in
 24 this chapter shall be construed to prohibit the sale of any
 25 kind of fireworks to a person holding a permit from--any

1 municipality issued under 50-37-107 at the display covered
 2 by such permits, the use of fireworks by railroads or other
 3 transportation agencies for signal purposes or illumination
 4 or when used in quarrying or blasting or other industrial
 5 use, or the sale or use of blank cartridges for a show or
 6 theater, for signal or ceremonial purposes in athletics or
 7 sports, or for use by military organizations or
 8 organizations composed of veterans of the United States
 9 armed forces.

10 (2) This chapter does not apply to toy paper caps
 11 containing less than one-fourth of a grain of explosive
 12 composition per cap, to the manufacture, storage, sale, or
 13 use of signals necessary for the safe operation of railroads
 14 or other classes of public or private transportation, to the
 15 military or naval forces of the United States or this state,
 16 to peace officers, or to the sale or use of blank cartridges
 17 for ceremonial, theatrical, or athletic events."

18 Section 5. Section 50-37-107, MCA, is amended to read:
 19 "50-37-107. Supervised public display of fireworks
 20 authorized. (1) The state fire marshal or the governing body
 21 of a city, town, or county may, under reasonable rules
 22 adopted by them, grant permits for supervised public
 23 displays of fireworks to be held by municipalities, fair
 24 associations, amusement parks, and other organizations or
 25 groups of individuals.

1 (2) Each display shall:

2 (a) be handled by a competent operator, who must be
3 approved by the state fire marshal or the governing body of
4 the municipality city, town, or county in which the display
5 is to be held; and

6 (b) be located, discharged, or fired as, in the
7 opinion of the state fire marshal or the chief of the fire
8 department or other officer designated by the governing body
9 of the municipality city, town, or county after proper
10 inspection, not to be hazardous to persons or property.

11 (3) Application for permits shall be made in writing
12 at least 15 days prior to the date of the display.

13 (4) After the privilege has been granted, sales,
14 possession, use, and distribution of fireworks for the
15 display are lawful for that purpose only.

16 (5) No permit granted under this section is
17 transferable.

18 ~~{6}--The--term--"municipalities"--includes--cities--and~~
19 ~~incorporated--towns--"~~

20 Section 6. Section 50-37-108, MCA, is amended to read:

21 "50-37-108. Damage indemnity bond required for public
22 display. The state fire marshal or the governing body of the
23 municipality city, town, or county shall require a bond
24 deemed considered adequate by the municipality state fire
25 marshal or governing body from the licensee in a sum not

1 less than \$500, conditioned for the payment of all damages
2 which may be caused either to a person or persons or to
3 property by reason of the licensed display and arising from
4 any acts of the licensee, his agents, employees, or
5 subcontractors."

6 Section 7. Section 50-38-106, MCA, is amended to read:

7 "50-38-106. General penalty. Any person or association
8 of persons violating any of the provisions of this chapter
9 shall be punished by imprisonment in the penitentiary state
10 prison not exceeding 5 years, by fine not exceeding \$5,000,
11 or by both such fine and imprisonment."

12 Section 8. Section 50-60-101, MCA, is amended to read:

13 "50-60-101. Definitions. As used in parts 1 through 4
14 and part 7 of this chapter, unless the context requires
15 otherwise, the following definitions apply:

16 (1) "Building" means a combination of any materials,
17 whether mobile, portable, or fixed, to form a structure and
18 the related facilities for the use or occupancy by persons
19 or property. The word "building" shall be construed as
20 though followed by the words "or part or parts thereof".

21 (2) "Building regulations" means any law, rule,
22 resolution, regulation, ordinance, or code, general or
23 special, or compilation thereof enacted or adopted by the
24 state or any municipality, including departments, boards,
25 bureaus, commissions, or other agencies of the state or a

1 municipality relating to the design, construction,
2 reconstruction, alteration, conversion, repair, inspection,
3 or use of buildings and installation of equipment in
4 buildings. The term does not include zoning ordinances.

5 (3) "Construction" means the original construction and
6 equipment of buildings and requirements or standards
7 relating to or affecting materials used, including
8 provisions for safety and sanitary conditions.

9 (4) "Department" means the department of
10 administration provided for in Title 2, chapter 15, part 10.

11 (5) "Equipment" means plumbing, heating, electrical,
12 ventilating, air conditioning, and refrigerating equipment,
13 elevators, dumbwaiters, escalators, and other mechanical
14 additions or installations.

15 (6) "Local building department" means the agency or
16 agencies of any municipality charged with the
17 administration, supervision, or enforcement of building
18 regulations, approval of plans, inspection of buildings, or
19 the issuance of permits, licenses, certificates, and similar
20 documents prescribed or required by state or local building
21 regulations.

22 (7) "Local legislative body" means the council or
23 commission charged with governing the municipality.

24 (8) "Municipality" means any incorporated city or town
25 and its jurisdictional area as defined by subsection (9) of

1 this section.

2 (9) (a) "Municipal jurisdictional area" means the area
3 within the limits of an incorporated municipality unless the
4 area is extended at the written request of a municipality.

5 (b) Upon request, the council's department may approve
6 extension of the jurisdictional area to include:

7 (i) all or part of the area within 4 1/2 miles of the
8 corporate limits of a municipality;

9 (ii) all of any platted subdivision which is partially
10 within 4 1/2 miles of the corporate limits of a
11 municipality; and

12 (iii) all of any zoning district adopted pursuant to
13 Title 76, chapter 2, part 1 or 2, which is partially within
14 4 1/2 miles of the corporate limits of a municipality.

15 (c) Distances shall be measured in a straight line in
16 a horizontal plane.

17 (10) "Owner" means the owner or owners of the premises
18 or lesser estate, a mortgagee or vendee in possession,
19 assignee of rents, receiver, executor, trustee, lessee, or
20 other person, firm, or corporation in control of a building.

21 (11) "Recreational vehicle" means anything defined as a
22 recreational vehicle in the edition of NFPA No. 501C or ANSI
23 All9.2 most recently adopted by the state in accordance with
24 50-60-401.

25 (12) "State agency" means any state officer,

1 department, board, bureau, commission, or other agency of
2 this state.

3 (13) "State building code" means the state building
4 code provided for in 50-60-203 or any portion of the code of
5 limited application and any of its modifications or
6 amendments."

7 Section 9. Section 50-63-305, MCA, is amended to read:

8 "50-63-305. Fire marshal authorized to administer
9 oaths. For the purpose of this chapter, the state fire
10 marshal or a deputy fire marshal is authorized to administer
11 an oath to a person appearing as a witness in a proceeding
12 investigating a violation of the laws relating to fires.
13 ~~Paise--swearing-in-such-a-proceeding-is-perjury-and-shall-be~~
14 ~~punished-as-such--"~~

15 Section 10. Section 53-2-706, MCA, is amended to read:

16 "53-2-706. Disqualification from public assistance --
17 right of appeal. (1) If the departments or their authorized
18 designees determine that a person required to participate in
19 the program has failed or refused to do so or has failed to
20 comply with the rules established under 53-2-707, that
21 person, upon written notice by one of the departments or its
22 authorized designee, shall be disqualified from receiving
23 AFDC payments. The termination of AFDC payments for any
24 person may not affect AFDC payments or any other form of
25 public assistance received by other members of the same

1 household.

2 (2) Upon written notification of disqualification, an
3 affected person may appeal to:

4 (a) the board for a fair hearing, pursuant to Title
5 53, chapter 2, part 6; or

6 (b) the department of labor and industry for redress
7 under the WIN adjudication process, pursuant to {29} CFR
8 part 56 and 45 CFR part 1398."

9 Section 11. Section 53-30-205, MCA, is amended to
10 read:

11 "53-30-205. Youth forest camps and work programs. In
12 the case of a youth forest camp, a work program shall be
13 provided by the department of ~~natural--resources--and~~
14 ~~conservation~~ state lands and shall be carried out with
15 cooperation between that department and the camp
16 superintendent."

17 Section 12. Section 60-2-202, MCA, is amended to read:

18 "60-2-202. Duties of department. The department shall:
19 (1) maintain and preserve the records of the
20 commission in its office at ~~the capitol~~ Helena;

21 (2) file and preserve copies of all plans,
22 specifications, contracts, estimates, and official acts
23 taken by it or by the commission;

24 (3) prepare and submit to the governor on or before
25 the 15th day of each month a report of work constructed,

1 under construction, and proposed for construction; the
 2 progress made during the preceding month; and
 3 recommendations for improvements and their estimated costs."

4 Section 13. Section 61-3-701, MCA, is amended to read:

5 "61-3-701. Foreign vehicles used in gainful occupation
 6 to be registered -- reciprocity. (1) Before any foreign
 7 licensed motor vehicle may be operated on the highways of
 8 this state for hire, compensation, or profit or before the
 9 owner and/or user thereof uses the vehicle if such owner
 10 and/or user is engaged in gainful occupation or business
 11 enterprise in the state, including highway work, the owner
 12 of the vehicle shall make application to a county treasurer
 13 for registration upon an application form furnished by the
 14 division. Upon satisfactory evidence of ownership submitted
 15 to the county treasurer and the payment of property taxes,
 16 if appropriate, as required by 15-8-201, ~~through 15-8-203~~
 17 15-8-202, or 15-24-301 or the payment of the light vehicle
 18 license fee as provided by 61-3-532, the treasurer shall
 19 accept the application for registration and shall collect
 20 the regular license fee required for the vehicle.

21 (2) The treasurer shall thereupon issue to the
 22 applicant a copy of the ~~application~~ certificate entitled
 23 "Owner's Certificate of Registration and Payment Receipt"
 24 and forward a duplicate copy of the certificate to the
 25 division. The treasurer shall at the same time issue to the

1 applicant the proper license plates or other identification
 2 markers, which shall at all times be displayed upon the
 3 vehicle when operated or driven upon roads and highways of
 4 this state during the period of the life of the license.

5 (3) The registration receipt shall not constitute
 6 evidence of ownership but shall be used only for
 7 registration purposes. No Montana certificate of ownership
 8 shall be issued for this type of registration.

9 (4) This section is not applicable to any vehicle
 10 covered by a valid and existing reciprocal agreement or
 11 declaration entered into under the provisions of the laws of
 12 Montana."

13 Section 14. Section 61-3-431, MCA, is amended to read:

14 "61-3-431. Special mobile equipment -- exemption from
 15 registration and payment of fees and charges --
 16 identification plate -- publicly owned special mobile
 17 equipment. (1) A person, firm, partnership, or corporation
 18 who owns, leases, or rents special mobile equipment as
 19 defined in 61-1-104(2) and occasionally moves that equipment
 20 on, over, or across the highways of the state is not subject
 21 to registration of that equipment or required to pay the
 22 fees and charges provided for in 61-3-502, 61-4-301 through
 23 61-4-308, or part 2 of chapter 10. Prior to movement on the
 24 highways, however, each piece of equipment shall display an
 25 equipment identification plate or a dealer's license plate

1 attached to the equipment.

2 (2) Annual application for the identification plate
3 shall be made to the county treasurer before any piece of
4 equipment is moved on the highways. Application shall be
5 made on a form furnished by the department of justice,
6 together with the payment of a fee of \$5. The equipment for
7 which a special mobile equipment plate is sought is subject
8 to the assessment of personal property taxes on the date
9 application is made for the plate. The personal property
10 taxes assessed against the special mobile equipment must be
11 paid before the issuance of a special mobile equipment
12 plate. The fees collected under this section belong to the
13 county road fund.

14 (3) The identification plate expires on December 31 of
15 each year. If the expired identification plate is displayed,
16 an owner of special mobile equipment registered under the
17 provisions of this section is entitled to operate the
18 equipment between January 1 and February 15 following
19 expiration without displaying the identification plate or
20 receipt of the current year.

21 (4) Publicly owned special mobile equipment, and
22 implements of husbandry used exclusively by an owner in the
23 conduct of his own farming operations, are exempt from this
24 section."

25 NEW SECTION. Section 15. Repealer. Sections-50-39-201

1 through--50-39-203--and SECTION 53-24-205, MCA, are IS
2 repealed.

-End-