

HOUSE BILL NO. 585

INTRODUCED BY COCCHIARELLA, DRISCOLL, DOHERTY, RYE

IN THE HOUSE

FEBRUARY 10, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.  FIRST READING.
FEBRUARY 19, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 20, 1993	PRINTING REPORT.  SECOND READING, DO PASS.  ON MOTION, REREFERRED TO COMMITTEE ON APPROPRIATIONS.
FEBRUARY 22, 1993	ENGROSSING REPORT.
MARCH 19, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 22, 1993	PRINTING REPORT.
MARCH 23, 1993	SECOND READING, DO PASS.
MARCH 24, 1993	ENGROSSING REPORT.  THIRD READING, PASSED. AYES, 81; NOES, 19.
MARCH 25, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 26, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY.  FIRST READING.
APRIL 6, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 7, 1993	SECOND READING, CONCURRED IN.
APRIL 8, 1993	THIRD READING, CONCURRED IN.

AYES, 31; NOES, 17.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 15, 1993

SECOND READING, AMENDMENTS  
CONCURRED IN.

APRIL 16, 1993

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 585  
2 INTRODUCED BY Caschianella  
3 Donald R. Sherry  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A  
5 CERTIFICATION PROGRAM FOR PERSONS PROVIDING RADON  
6 MEASUREMENT AND MITIGATION SERVICES; PROVIDING A PERMITTING  
7 PROCESS FOR PERSONS PROVIDING MITIGATION SERVICES; PROVIDING  
8 RULEMAKING AUTHORITY TO THE DEPARTMENT OF HEALTH AND  
9 ENVIRONMENTAL SCIENCES TO ESTABLISH RADON MEASUREMENT AND  
10 MITIGATION CERTIFICATION CRITERIA AND A PERMITTING PROCESS;  
11 REQUIRING A CERTIFIED PERSON TO DISCLOSE RADON INFORMATION  
12 TO THE DEPARTMENT FOR CONDUCTING LEGITIMATE SCIENTIFIC  
13 STUDIES; AUTHORIZING THE DEPARTMENT TO INSPECT RECORDS OF  
14 ANY PERSON ENGAGED IN A RADON-RELATED OCCUPATION;  
15 ESTABLISHING A PUBLIC EDUCATION AND OUTREACH PROGRAM;  
16 REQUIRING NOTIFICATION OF RADON HAZARDS ON REAL ESTATE  
17 TRANSACTIONS; ASSESSING A RADON-INHABITABLE REAL PROPERTY  
18 TRANSACTION FEE; PROVIDING FOR THE DISTRIBUTION OF THE FEE  
19 PROCEEDS; ESTABLISHING A RADON CONTROL ACCOUNT IN THE  
20 SPECIAL REVENUE FUND; PROVIDING PENALTIES FOR FRAUDULENT  
21 RADON TESTING AND REPORTING; CREATING AN EXCEPTION TO THE  
22 DEFINITION OF "LICENSING BOARD" UNDER 2-8-203 FOR AN  
23 IMMINENT THREAT TO PUBLIC HEALTH FROM KNOWN HUMAN  
24 CARCINOGENS, INCLUDING RADON OR RADON PROGENY; AMENDING  
25 SECTIONS 2-8-202 AND 15-7-305, MCA; AND PROVIDING AN

1 IMMEDIATE EFFECTIVE DATE."

2  
3 WHEREAS, radon is an odorless, colorless, tasteless,  
4 radioactive gas that occurs naturally in soil gas,  
5 underground water, and outdoor air;

6 WHEREAS, radon gas enters homes and buildings through  
7 exposures in foundations, decays to form radon progeny, and,  
8 unless exposed to the atmosphere, accumulates in structures  
9 and becomes hazardous to human health;

10 WHEREAS, prolonged exposure to elevated concentrations  
11 of radon decay products has been associated with increases  
12 in the risk of lung cancer;

13 WHEREAS, only four states in the country rank higher  
14 than Montana in the percentage of homes that exceed the  
15 United States Environmental Protection Agency action  
16 guidance of 4 picocuries per liter;

17 WHEREAS, property owners in affected areas should have  
18 their residences and other buildings tested to determine  
19 radon levels;

20 WHEREAS, property owners do contract for services to  
21 measure and reduce radon levels in specific buildings;

22 WHEREAS, other states' experiences with radon testing  
23 and with mitigation companies have proved that the  
24 possibility exists for fraudulent operations;

25 WHEREAS, public education and access to information

concerning radon will protect the public health; and

WHEREAS, notification of the presence of radon to persons acquiring or selling real estate will protect the public health.

THEREFORE, the Legislature of the State of Montana finds it essential to protect the public health, safety, and welfare through public education concerning radon and through real estate transaction notification and to ensure that radon service providers are qualified to perform services rendered.

#### STATEMENT OF INTENT

A statement of intent is required for this bill in order to provide the department of health and environmental sciences guidance in certifying persons conducting radon testing and mitigation, establishing a permitting process for persons providing mitigation services, instituting a public education and outreach program, and assessing a radon-inhabitable real property transaction fee. The department shall institute a program of certification for persons who perform radon progeny testing or carry out remedial radon mitigation measures in order to protect the public from unqualified or unscrupulous consultants and firms. The department is required to establish a permitting process for radon mitigation projects to ensure that

projects are completed in a manner to protect the public health. The department is also required to develop a comprehensive public education and outreach program for radon to encourage testing and mitigation. The department shall prescribe rules that are reasonably necessary for the imposition, collection, and administration of a \$10 radon-inhabitable real property transaction fee. [This act] creates an exception to the definition of "licensing board" under 2-8-202 because radon and radon progeny are some of the few known human carcinogens that are an imminent threat to public health.

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

NEW SECTION. Section 1. Short title. [Sections 1 through 14] may be cited as the "Montana Radon Control Act".

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 14], the following definitions apply:

(1) "Certification" means a certificate issued by the department that permits a person to work in a radon-related occupation.

(2) "Department" means the department of health and environmental sciences.

(3) "Inhabitable real property" means any real property that includes a building affixed to land.

(4) "Mitigation project" means to repair or alter a

1 building or design for the purpose, in whole or in part, of  
2 reducing the concentration of radon in the indoor  
3 atmosphere.

4 (5) "Person" means an individual, partnership,  
5 corporation, sole proprietorship, firm, enterprise,  
6 franchise, association, consultant, state or municipal  
7 agency, political subdivision of the state, or any other  
8 entity.

9 (6) "Radon" means any of the gaseous radioactive decay  
10 products of uranium or thorium.

11 (7) "Radon progeny" means any of the radioactive decay  
12 products of radon.

13 (8) "Radon-related occupation" means the occupation of  
14 any person who performs radon gas or radon progeny  
15 measurements, including sample collection, analysis, or  
16 interpretation of those measurements or who performs radon  
17 gas or radon progeny mitigation.

18 (9) "Stationary laboratory" means a laboratory with  
19 equipment that is not mobile or to which samples must be  
20 sent for analysis.

21 NEW SECTION. Section 3. Rulemaking authority —  
22 certification standards and procedures — issuance of  
23 permits. (1) The department shall adopt rules establishing  
24 standards and procedures for certification of persons in  
25 radon-related occupations and control of the work performed

1 by persons in radon-related occupations. The rules must be  
2 consistent with federal law and must include but are not  
3 limited to:

4 (a) standards for review and approval of training  
5 courses;

6 (b) qualifications and minimum experience requirements;

7 (c) proficiency testing requirements;

8 (d) requirements for renewal of certification,  
9 including periodic refresher courses;

10 (e) criteria for decertification;

11 (f) inspection requirements for radon mitigation  
12 projects and radon-related occupation credentials;

13 (g) criteria to determine whether and what type of  
14 control measures are necessary for a radon mitigation  
15 project and whether a project is completed in a manner  
16 sufficient to protect public health;

17 (h) requirements for issuance of radon mitigation  
18 project permits and conditions that the permitholder shall  
19 meet;

20 (i) advance notification procedures and issuance of  
21 permits for radon mitigation projects;

22 (j) standards for seeking injunctions, criminal and  
23 civil penalties, or emergency actions; and

24 (k) fees, which must be commensurate with costs of  
25 programs under [sections 1 through 14], for:

- 1 (i) review and approval of training courses;
- 2 (ii) application for and renewal of certification;
- 3 (iii) issuance of radon mitigation project permits;
- 4 (iv) requested inspections of radon mitigation projects;
- 5 and
- 6 (v) public education programs concerning radon.

7 (2) (a) For radon mitigation projects having a cost of  
8 \$3,500 or less, a certified person in a radon-related  
9 occupation may obtain permits for multiple mitigation  
10 projects in advance from the department for an appropriate  
11 fee.

12 (b) The department shall from time to time conduct spot  
13 inspections to ensure that mitigation projects having a cost  
14 of \$3,500 or less are completed in a manner to protect  
15 public health.

16 NEW SECTION. Section 4. Certification requirements --  
17 restrictions. (1) To qualify for certification, a person  
18 shall:

- 19 (a) successfully complete a radon measurement or
- 20 mitigation course approved by the department; and
- 21 (b) pass an examination approved by the department.

22 (2) Except as provided in subsection (3), after January  
23 1, 1994, a person may not:

- 24 (a) engage in a radon-related occupation unless
- 25 certified by the department; or

1 (b) offer a training course for a radon-related  
2 occupation to meet the certification requirements of this  
3 section unless the department approves the course.

4 (3) Subsection (2) does not apply to:

5 (a) a person performing radon testing or mitigation on  
6 a building that the person owns or occupies;

7 (b) a nonprofit organization disseminating radon  
8 information;

9 (c) nonprofit radon research activities;

10 (d) a person in training for a time period established  
11 by rule under direct supervision of a person certified under  
12 [sections 1 through 14]; or

13 (e) a stationary laboratory that is listed as  
14 proficient on the United States environmental protection  
15 agency radon measurement proficiency program and that is  
16 supervised by an individual who has a bachelor of science  
17 degree in radio chemistry, physics, or health physics.

18 NEW SECTION. Section 5. Disclosure of information to  
19 department. (1) The results of measurements of radon gas or  
20 radon progeny performed by a person certified by the  
21 department must be reported to the department and to the  
22 persons contracting for the service. The report must include  
23 the radon levels detected and the location and description  
24 of the building.

25 (2) Except for use in conducting legitimate scientific

1 studies, as determined by the department, data and  
2 information relating to radon gas and radon progeny  
3 contamination at nonpublic properties, including residential  
4 dwellings, gathered under [sections 1 through 14] must be  
5 considered confidential by the department. The department  
6 may not release the data or information in its possession to  
7 anyone other than the owner or occupant of the property.

8 NEW SECTION. Section 6. Records inspection and  
9 maintenance. (1) Authorized representatives of the  
10 department may inspect the business and records of a person  
11 engaged in a radon-related occupation. Inspections may occur  
12 at all reasonable times. Inspections may include an  
13 examination of records, test procedures, and mitigation  
14 project procedures to determine compliance with this part.

15 (2) A person engaged in a radon mitigation project  
16 shall maintain the records required by department rule  
17 concerning the nature of the project activities.

18 NEW SECTION. Section 7. Public information and  
19 education. The department shall initiate and administer a  
20 program designed to educate and inform the public concerning  
21 radon gas and radon progeny. The program must include but is  
22 not limited to:

- 23 (1) public presentations to interested parties;
- 24 (2) developing, reproducing, and distributing printed
- 25 materials to homeowners and other interested groups;

1 (3) responding to telephone inquiries on a maintained  
2 toll-free telephone number;

3 (4) providing technical and training information for  
4 radon measurement and mitigation;

5 (5) maintaining and distributing lists of qualified  
6 persons who perform measurement and mitigation services;

7 (6) developing and implementing an effective  
8 communication strategy to encourage all homeowners to test  
9 for radon; and

10 (7) encouraging cooperative partnerships to promote  
11 radon testing of buildings and homes.

12 NEW SECTION. Section 8. Radon disclosure statement on  
13 real estate documents -- disclosure of prior radon testing  
14 -- immunity from liability. (1) After January 1, 1994, a  
15 radon disclosure statement must be provided on at least one  
16 document, form, or application executed prior to the  
17 execution of any contract for the purchase and sale of  
18 inhabitable real property. The seller or seller's agent  
19 shall provide the following disclosure statement to the  
20 buyer, and the buyer shall acknowledge receipt of this  
21 disclosure statement by signing a copy of the disclosure  
22 statement:

23 "RADON GAS: RADON IS A NATURALLY OCCURRING RADIOACTIVE  
24 GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN  
25 SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS

WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED  
FEDERAL GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN MONTANA.  
ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY  
BE OBTAINED FROM YOUR COUNTY OR STATE PUBLIC HEALTH UNIT."

(2) Whenever a seller knows that a building has been  
tested for radon gas and radon progeny, the seller shall  
provide to the buyer, with the contract of sale, a copy of  
the results of that test and evidence of any subsequent  
mitigation or treatment. A prospective buyer who contracts  
for the testing may receive the results of that testing. The  
furnishing of test results and evidence of mitigation or  
treatment is not to be construed as a promise, warranty, or  
representation of any sort by the seller or the seller's  
agent that the test results are accurate or that the  
mitigation or treatment is effective.

(3) A seller or seller's agent who complies with  
subsections (1) and (2) is not liable in any action based on  
the presence of radon gas or radon progeny in the building.

NEW SECTION. Section 9. Imposition of  
radon-inhabitable real property transaction fee. A fee of  
\$10 is imposed on all real estate transactions involving  
inhabitable real property, as defined in [section 2], prior  
to recordation under 15-7-305.

NEW SECTION. Section 10. Collection of fee and  
procuring of radon disclosure statement. Before a deed or

instrument evidencing a transfer of title subject to the fee  
imposed in [section 9] may be recorded pursuant to 15-7-305,  
the treasurer of the county where the property or any  
portion of the property is located shall assess and collect  
the \$10 fee due from the buyer or the buyer's agent and  
obtain a disclosure statement signed by the buyer or the  
buyer's agent as provided in [section 8]. The treasurer of  
the county where the property or any portion of the property  
is located shall maintain a record of the disclosure  
statement signed by the buyer or the buyer's agent as set  
out in [section 8].

NEW SECTION. Section 11. Disposition of proceeds. (1)  
The proceeds of the fee collected under [section 10] must be  
deposited as follows:

(a) 15% to the general fund of the county in which the  
certificate required under 15-7-305 is executed, for  
administrative costs of assessing the fee;

(b) 20% to the local county health unit of the county  
in which the certificate required under 15-7-305 is  
executed, for radon-related activities consistent with the  
goals of the Montana Radon Control Act; and

(c) 65% remitted to the department to be deposited in  
the radon control account established in [section 13].

(2) The county treasurer of the county in which the  
certificate required under 15-7-305 is executed shall

transmit on a quarterly basis the proceeds pursuant to subsection (1)(c) to the department.

**NEW SECTION. Section 12. Radon-inhabitable real property transfer fee and disclosure statement -- rules.** (1) The department may prescribe rules that are reasonably necessary to facilitate and expedite the provisions and administration of the radon-inhabitable real property transfer fee provisions, including the imposition, collection, and administration of the \$10 fee imposed in [section 9]. The department may also prescribe rules that are reasonably necessary to facilitate and expedite the provisions and administration of signed radon disclosure statement requirements provided in [sections 8 through 10].

(2) The department shall provide an adequate supply of disclosure statement forms, as provided for in [section 8], to each county clerk and recorder in the state.

**NEW SECTION. Section 13. Radon control account.** (1) There is a radon control account in the state special revenue fund. There must be deposited in the account all money received from:

(a) certification and permit fees collected under [section 3];

(b) radon-inhabitable real property transfer fees collected under [sections 9 and 10];

(c) civil penalties collected pursuant to [section 14];

and

(d) any loans, grants, or other funds or gifts, conditional or otherwise, in furtherance of [sections 1 through 14] that are received from the federal government and from other sources, public or private.

(2) Funds in the account are allocated to the department for the purpose of funding the costs of implementing and operating the program established under [sections 1 through 14].

**NEW SECTION. Section 14. Criminal and civil penalties -- disposition of civil penalties.** (1) The department may suspend, deny, or revoke the certification of a person who:

(a) fraudulently or deceptively obtains or attempts to obtain certification;

(b) fails to meet the qualifications for certification or comply with the requirements of [sections 1 through 14] or any rule adopted by the department; or

(c) fails to meet any applicable federal or state standard for radon-related occupations.

(2) A person who purposely or knowingly violates any provision of [sections 1 through 14] or an adopted rule or order issued pursuant to [sections 1 through 14] is guilty of a misdemeanor.

(3) If the department determines that a violation of [sections 1 through 14] or an adopted rule or order issued

pursuant to [sections 1 through 14] has occurred, it may issue an order compelling the person receiving the order to end the violation immediately.

(4) In addition to or instead of the remedies listed in subsections (1) through (3), a certified person who purposely or knowingly violates [sections 1 through 14] or an adopted rule or order issued pursuant to [sections 1 through 14] may be assessed by the district court a civil penalty of not more than \$1,000 a day for an initial violation and \$5,000 a day for each subsequent violation occurring within a 3-year period from the date of the initial violation.

(5) A district court may assess a civil penalty of not more than \$10,000 a day upon a person who is engaged in a radon-related occupation without valid certification. In the case of a continuing violation, each day the violation continues constitutes a separate violation.

(6) Civil penalties collected under this section must be deposited into the account established in [section 13].

**Section 15.** Section 15-7-305, MCA, is amended to read:

"15-7-305. **Realty transfer certificate required.** (1) The county clerk and recorder shall cause to be executed by the parties to the transaction or their agents or representatives a certificate declaring the consideration paid or to be paid for the real estate transferred.

(2) No An instrument or deed evidencing a transfer of real estate may not be accepted for recordation until the certificate has been received by the county clerk and recorder and the radon-inhabitable real property transfer fee imposed by [section 9] is collected pursuant to [section 10] and the signed disclosure statement provided for in [section 8] is received. The validity or effectiveness of an instrument or deed as between the parties to it shall not be affected by the failure to comply with the provisions in this part.

(3) The form of certificate shall be prescribed by the department of revenue, and the department shall provide an adequate supply of such forms to each county clerk and recorder in the state.

(4) The clerk and recorder shall prepare a like certificate for each contract for deed filed for recording.

(5) The clerk and recorder shall transmit each executed certificate to the department."

**Section 16.** Section 2-8-202, MCA, is amended to read:

"2-8-202. **Definitions.** In this part, the following definitions apply:

(1) "Applicant" means the persons or organization proposing state licensing for an occupation or profession.

(2) "Committee" means the legislative audit committee.

(3) "License" means a permit, certificate, approval,

1 registration, charter, or other form of permission required  
2 by law as a condition of practicing a profession or  
3 occupation.

4 (4) "Licensing" means a regulatory process that  
5 includes but is not limited to the grant, denial, renewal,  
6 revocation, suspension, annulment, withdrawal, limitation,  
7 transfer, or amendment of a license.

8 (5) "Licensing board":

9 (a) means an office, position, commission, or any other  
10 entity or instrumentality of the executive branch of state  
11 government that is responsible for licensing members of an  
12 occupation or profession;

13 (b) does not mean:

14 (i) an office, position, commission, or other entity or  
15 instrumentality of the executive branch of state government  
16 that is required by federal law to issue a license or that  
17 may, as a result of issuing the license, receive as an  
18 integral part of a regulatory program a delegation of  
19 primary enforcement responsibility for a program established  
20 by state and federal law; or

21 (ii) an office, position, commission, or other entity or  
22 instrumentality of the executive branch of state government  
23 that would issue a license pursuant to an identified  
24 imminent threat to public health of a known human  
25 carcinogen, including radon or radon progeny."

1 NEW SECTION. Section 17. Codification instruction.  
2 [Sections 1 through 14] are intended to be codified as an  
3 integral part of Title 75, chapter 3, and the provisions of  
4 Title 75, chapter 3, apply to [sections 1 through 14].

5 NEW SECTION. Section 18. Coordination instruction. If  
6 House Bill No. 107 is passed and approved and if it repeals  
7 section 2-8-202, then [section 16 of this act], amending  
8 2-8-202, is void and all language in the title and statement  
9 of intent of [this act] that refers to 2-8-202 is void.

10 NEW SECTION. Section 19. Saving clause. [This act]  
11 does not affect rights and duties that matured, penalties  
12 that were incurred, or proceedings that were begun before  
13 [the effective date of this act].

14 NEW SECTION. Section 20. Severability. If a part of  
15 [this act] is invalid, all valid parts that are severable  
16 from the invalid part remain in effect. If a part of [this  
17 act] is invalid in one or more of its applications, the part  
18 remains in effect in all valid applications that are  
19 severable from the invalid applications.

20 NEW SECTION. Section 21. Effective date. [This act] is  
21 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

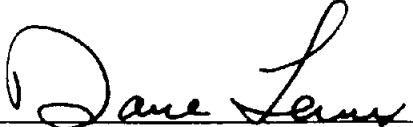
In compliance with a written request, there is hereby submitted a Fiscal Note for HB0585, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act establishing a certification program for persons providing radon measurement and mitigation services; providing a permitting process for persons providing mitigation services; providing rulemaking authority to the Department of Health and Environmental Sciences to establish radon measurement and mitigation certification criteria and a permitting process; requiring a certified person to disclose radon information to the department for conducting legitimate scientific studies; authorizing the department to inspect records of any person engaged in a radon-related occupation; establishing a public education and outreach program; requiring notification of radon hazards on real estate transactions; assessing a radon-inhabitable real property transaction fee; providing for the distribution of the fee proceeds; establishing a radon control account in the special revenue fund; providing penalties for fraudulent radon testing and reporting; creating an exception to the definition of "Licensing Board" under 2-8-203 for an imminent threat to public health from known human carcinogens, including radon or radon progeny, effective immediately.

ASSUMPTIONS:

1. The revenue assumptions are based upon information provided by the Legislative Auditor's Office pertaining to real estate transactions and information provided by the radon measurement and mitigation industries pertaining to numbers of accredited individuals and numbers of potential projects.
2. The revenue will be generated by assessing a radon-inhabitable real property transaction fee established by HB0585 and certification and permit fees established by rule. The radon-inhabitable real property fees would be assessed against approximately 19,000 real estate transactions annually in the state. The certification fees would be assessed against approximately 60 individuals performing in a radon-related occupation. The permit fees would be assessed against approximately 500 radon mitigation projects per year. The county general funds will retain \$1.50 from about 19,000 real estate transactions for administration for a total of \$28,500 and the county health unit will retain \$2.00 from approximately 19,000 real estate transactions for radon related activities for a total of \$38,000.
3. The revenue projection includes \$105,000 of federal grant money available for FY94. Federal grant money may not be available for FY95 as the intent of Congress was to establish state radon programs which would become self supporting.
4. The expenditure assumptions are based upon the projected personal services and operating expenses required by the department to perform the requirements of HB0585.
5. This bill would require an appropriation.
6. Possible excess revenue collected in the first year, due to the availability of a federal grant, would be used in following years to offset revenue shortfalls that are due to fluctuations in the housing market.

(Continued)

 2-16-93  
DAVID LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

 2/17/93  
VICKI COCCHIARELLA, PRIMARY SPONSOR      DATE

Fiscal Note for HB0585, as introduced

HB 585

FISCAL IMPACT:

	<u>FY '94</u>			<u>FY '95</u>		
<u>Expenditures:</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	0	1.5	1.5	0	1.5	1.5
Personal Services	0	\$55,788	\$55,788	0	\$55,788	\$55,788
Operating	<u>0</u>	<u>\$109,940</u>	<u>\$109,940</u>	<u>0</u>	<u>\$99,581</u>	<u>\$99,581</u>
Total	0	\$165,728	\$165,728	0	\$155,369	\$155,369
 <u>Funding:</u>						
State Special Revenue	0	\$60,728	\$60,728	0	\$155,369	\$155,369
Federal Grant	<u>0</u>	<u>\$105,000</u>	<u>\$105,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	0	\$165,728	\$165,728	0	\$155,369	\$155,369
 <u>Revenues:</u>						
State Special Revenue	0	\$145,000	\$145,000	0	\$145,000	\$145,000
Federal Grant	<u>0</u>	<u>\$105,000</u>	<u>\$105,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	0	\$250,000	\$250,000	0	\$145,00	\$145,000
 <u>Net Impact:</u>						
State Special Revenue	0	\$84,272	\$84,272	0	(\$10,369)	(\$10,369)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The county general funds will realize a revenue increase for administration of approximately \$28,500 per year.  
The county health departments will realize a revenue increase for radon related activities of \$38,000 per year.

HB 585

APPROVED BY COMM. ON BUSINESS  
AND ECONOMIC DEVELOPMENT

HOUSE BILL NO. 585

INTRODUCED BY COCCHIARELLA, DRISCOLL, DOHERTY, RYE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A  
CERTIFICATION AN EDUCATIONAL PROGRAM FOR PERSONS PROVIDING  
RADON MEASUREMENT AND MITIGATION SERVICES; PROVIDING--A  
PERMITTING---PROCESS---FOR---PERSONS---PROVIDING--MITIGATION  
SERVICES; PROVIDING RULEMAKING AUTHORITY TO THE DEPARTMENT  
OF HEALTH AND ENVIRONMENTAL SCIENCES TO ESTABLISH RADON  
MEASUREMENT AND MITIGATION CERTIFICATION EDUCATIONAL PROGRAM  
CRITERIA AND--A--PERMITTING--PROCESS; REQUIRING--A--CERTIFIED  
PERSON--TO--DISCLOSE PROVIDING FOR VOLUNTARY DISCLOSURE OF  
RADON INFORMATION TO THE DEPARTMENT FOR CONDUCTING  
LEGITIMATE SCIENTIFIC STUDIES; AUTHORIZING--THE--DEPARTMENT--TO  
INSPECT--RECORDS--OF--ANY--PERSON--ENGAGED--IN--A--RADON--RELATED  
OCCUPATION; ESTABLISHING A PUBLIC EDUCATION AND OUTREACH  
PROGRAM; REQUIRING NOTIFICATION OF RADON HAZARDS ON REAL  
ESTATE TRANSACTIONS; ASSESSING A RADON-INHABITABLE REAL  
PROPERTY TRANSACTION FEE; PROVIDING FOR THE DISTRIBUTION OF  
THE FEE PROCEEDS; ESTABLISHING A RADON CONTROL ACCOUNT IN  
THE SPECIAL REVENUE FUND; PROVIDING--PENALTIES--FOR--FRAUDULENT  
RADON--TESTING--AND--REPORTING;--CREATING--AN--EXCEPTION--TO--THE  
DEFINITION---OF---"LICENSING--BOARD"--UNDER--2-8-203--FOR--AN  
IMMINENT--THREAT--TO--PUBLIC--HEALTH--FROM--KNOWN--HUMAN  
CARCINOGENS;--INCLUDING--RADON--OR--RADON--PROGENY; AMENDING

SECTIONS--2-8-202--AND SECTION 15-7-305, MCA; AND PROVIDING AN  
IMMEDIATE EFFECTIVE DATE."

WHEREAS, radon is an odorless, colorless, tasteless,  
radioactive gas that occurs naturally in soil gas,  
underground water, and outdoor air;

WHEREAS, radon gas enters homes and buildings through  
exposures in foundations, decays to form radon progeny, and,  
unless exposed to the atmosphere, accumulates in structures  
and becomes hazardous to human health;

WHEREAS, prolonged exposure to elevated concentrations  
of radon decay products has been associated with increases  
in the risk of lung cancer;

WHEREAS, only four states in the country rank higher  
than Montana in the percentage of homes that exceed the  
United States Environmental Protection Agency action  
guidance of 4 picocuries per liter;

WHEREAS, property owners in affected areas should have  
their residences and other buildings tested to determine  
radon levels;

WHEREAS, property owners do contract for services to  
measure and reduce radon levels in specific buildings;

WHEREAS, other states' experiences with radon testing  
and with mitigation companies have proved that the  
possibility exists for fraudulent operations;

1 WHEREAS, public education and access to information  
2 concerning radon will protect the public health; and

3 WHEREAS, notification of the presence of radon to  
4 persons acquiring or selling real estate will protect the  
5 public health.

6 THEREFORE, the Legislature of the State of Montana finds  
7 it essential to protect the public health, safety, and  
8 welfare through public education concerning radon and  
9 through real estate transaction notification and to ensure  
10 EDUCATE that radon service providers are--qualified to  
11 perform RADON services rendered COMPATIBLE WITH THE MOST  
12 CURRENT TECHNOLOGY.

#### 14 STATEMENT OF INTENT

15 A statement of intent is required for this bill in order  
16 to provide the department of health and environmental  
17 sciences guidance in certifying EDUCATING persons conducting  
18 radon testing and mitigation, ~~establishing--a--permitting~~  
19 ~~process---for---persons---providing---mitigation---services,~~  
20 instituting a public education and outreach program, and  
21 assessing a radon-inhabitable real property transaction fee.  
22 The department shall institute a AN EDUCATION program of  
23 certification for persons who perform radon progeny testing  
24 or carry out remedial radon mitigation measures in order--to  
25 protect---the---public---from---unqualified--or---unscrupulous

1 consultants--and--firms;--The--department--is--required---to  
2 establish-a-permitting-process-for-radon-mitigation-projects  
3 to-ensure-that-projects-are-completed-in-a-manner-to-protect  
4 the--public--health. The department is also required to  
5 develop a comprehensive public education and outreach  
6 program for radon to encourage testing and mitigation. The  
7 department shall prescribe rules that are reasonably  
8 necessary for the imposition, collection, and administration  
9 of a \$10 radon-inhabitable real property transaction fee.  
10 {This--act}--creates--an--exception--to--the--definition--of  
11 "licensing-board"--under--2-8-202--because--radon--and--radon  
12 progeny-are-some-of-the-few-known-human-carcinogens-that-are  
13 an--imminent--threat--to-public-health; THE DEPARTMENT SHALL  
14 PUBLISH A LISTING OF THOSE PERSONS THAT HAVE SUCCESSFULLY  
15 COMPLETED RADON TRAINING AND TESTING REQUIREMENTS.

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

18 NEW SECTION. Section 1. short title. [Sections 1  
19 through 14 12] may be cited as the "Montana Radon Control  
20 Act".

21 NEW SECTION. Section 2. Definitions. As used in  
22 [sections 1 through 14 12], the following definitions apply:  
23 {1}--"Certification"--means--a--certificate--issued--by--the  
24 department--that--permits--a--person--to--work--in--a--radon-related  
25 occupation;

1       †2†(1) "Department" means the department of health and  
2 environmental sciences.

3       †3†(2) "Inhabitable real property" means any real  
4 property that includes a building affixed to land.

5       †4†(3) "Mitigation project" means to repair or alter a  
6 building or design for the purpose, in whole or in part, of  
7 reducing the concentration of radon in the indoor  
8 atmosphere.

9       †5†(4) "Person" means an individual, partnership,  
10 corporation, sole proprietorship, firm, enterprise,  
11 franchise, association, consultant, state or municipal  
12 agency, political subdivision of the state, or any other  
13 entity.

14       †6†(5) "Radon" means any of the gaseous radioactive  
15 decay products of uranium or thorium.

16       †7†(6) "Radon progeny" means any of the radioactive  
17 decay products of radon.

18       †8†(7) "Radon-related occupation" means the occupation  
19 of any person who performs radon gas or radon progeny  
20 measurements, including sample collection, analysis, or  
21 interpretation of those measurements or who performs radon  
22 gas or radon progeny mitigation.

23       †9†--"Stationary--laboratory"--means--a--laboratory-with  
24 equipment-that-is-not-mobile-or-to--which--samples--must--be  
25 sent-for-analysis;

1       NEW SECTION. Section 3. Rulemaking authority --  
2 certification--standards--and--procedures-----issuance---of  
3 permits CRITERIA FOR TRAINING AND TESTING -- PROFICIENCY  
4 LISTING. †† The department shall adopt rules establishing  
5 standards and procedures for certification--of EDUCATING  
6 persons ENGAGED in radon-related occupations and-control--of  
7 the--work-performed-by-persons-in-radon-related-occupations.  
8 The rules must be consistent with federal law and must  
9 include but are not limited to:

10       †a†(1) standards for review and approval of training  
11 courses;

12       †b†--qualifications-and-minimum-experience-requirements  
13       (2) CRITERIA FOR PUBLISHING A LISTING OF PERSONS  
14 ENGAGED IN A RADON-RELATED OCCUPATION WHO HAVE SUCCESSFULLY  
15 COMPLETED TRAINING AND TESTING REQUIREMENTS ESTABLISHED BY  
16 THE DEPARTMENT;

17       †c†(3) proficiency testing requirements;

18       †d†(4) requirements for renewal--of--certification,  
19 including periodic refresher courses TO MAINTAIN PROFICIENCY  
20 LISTING ELIGIBILITY;

21       †e†--criteria-for-decertification;

22       †f†--inspection--requirements---for---radon---mitigation  
23 projects-and-radon-related-occupation-credentials;

24       †g†--criteria--to--determine--whether--and--what-type-of  
25 control--measures--are--necessary--for--a--radon--mitigation

1 project-and-whether-a-project-is-completed-in-a-manner  
 2 sufficient-to-protect-public-health;  
 3 {h}--requirements---for---issuance---of---radon---mitigation  
 4 project-permits-and-conditions-that-the-permit-holder--shall  
 5 meet;  
 6 {i}--advance--notification--procedures--and--issuance-of  
 7 permits-for-radon-mitigation-projects;  
 8 {j}--standards-for--seeking--injunctions--criminal--and  
 9 civil-penalties--or-emergency-actions; and  
 10 {k}{5} fees, which must be commensurate with costs of  
 11 programs under [sections 1 through 14 12], for:  
 12 {i}{A} review and approval of training courses AND  
 13 APPLICABLE TESTS;  
 14 {ii}-application-for-and-renewal-of-certification;  
 15 {iii}-issuance-of-radon-mitigation-project-permits;  
 16 {iv}-requested-inspections-of-radon-mitigation-projects;  
 17 and  
 18 {v}{B} public education programs concerning radon.  
 19 {2}--{a}-For--radon-mitigation-projects-having-a-cost-of  
 20 \$3,500-or-less--a--certified--person--in--a--radon-related  
 21 occupation---may---obtain---permits---for---multiple---mitigation  
 22 projects-in-advance-from-the-department-for--an--appropriate  
 23 fee;  
 24 {b}--The-department-shall--from-time-to-time-conduct-spot  
 25 inspections-to-ensure-that-mitigation-projects-having-a-cost

1 of--\$3,500--or--less--are--completed--in-a-manner-to-protect  
 2 public-health;  
 3 NEW SECTION. Section 4. CERTIFICATION RADON EDUCATION  
 4 AND PROFICIENCY LISTING requirements ---restrictions. {1}-To  
 5 qualify--for-certification IN ORDER TO BE PUBLICLY LISTED AS  
 6 PROFICIENT BY THE DEPARTMENT IN A RADON-RELATED OCCUPATION,  
 7 a person shall:  
 8 {a}{1} successfully complete a radon measurement or  
 9 mitigation course approved by the department; and  
 10 {b}{2} pass an examination approved by the department.  
 11 {2}--Except-as-provided-in-subsection-{3},-after-January  
 12 1, 1994, a person may not:  
 13 {a}--engage--in--a--radon-related---occupation---unless  
 14 certified-by-the-department; or  
 15 {b}--offer---a---training--course--for--a--radon-related  
 16 occupation-to-meet-the-certification--requirements--of--this  
 17 section-unless-the-department-approves-the-course;  
 18 {3}--Subsection-{2}-does-not-apply-to:  
 19 {a}--a--person-performing-radon-testing-or-mitigation-on  
 20 a-building-that-the-person-owns-or-occupies;  
 21 {b}--a--nonprofit---organization---disseminating---radon  
 22 information;  
 23 {c}--nonprofit-radon-research-activities;  
 24 {d}--a--person-in-training-for-a-time-period-established  
 25 by-rule-under-direct-supervision-of-a-person-certified-under

~~{sections 1 through 14}; or~~

~~{e}--a--stationary--laboratory--that--is--listed--as  
proficient--on--the--United--States--environmental--protection  
agency--radon--measurement--proficiency--program--and--that--is  
supervised--by--an--individual--who--has--a--bachelor--of--science  
degree--in--radio--chemistry,--physics,--or--health--physics.~~

NEW SECTION. Section 5. DISCLOSURE VOLUNTARY  
DISCLOSURE of information to department. (1) The results of  
measurements of radon gas or radon progeny performed by a  
person certified by the department must MAY be reported to  
the department and to the persons contracting for the  
service. The report must MAY include the radon levels  
detected and the location and description of the building.

(2) Except for use in conducting legitimate scientific  
studies, as determined by the department, data and  
information relating to radon gas and radon progeny  
contamination at nonpublic properties, including residential  
dwellings, gathered under ~~{sections 1 through 14}~~ 12 must be  
considered confidential by the department. The department  
may not release the data or information in its possession to  
anyone other than the owner or occupant of the property.

NEW SECTION. Section 6. Records--inspection--and--  
maintenance--{1}--Authorized--representatives--of--the  
department--may--inspect--the--business--and--records--of--a--person  
engaged--in--a--radon--related--occupation; inspections may occur

~~at--all--reasonable--times; inspections may include an  
examination of records, test procedures, and mitigation  
project procedures to determine compliance with this part.~~

~~{2}--A--person--engaged--in--a--radon--mitigation--project  
shall maintain the records required by department rule  
concerning the nature of the project activities.~~

NEW SECTION. Section 6. Public information and  
education. The department shall initiate and administer a  
program designed to educate and inform the public concerning  
radon gas and radon progeny. The program must include but is  
not limited to:

- (1) public presentations to interested parties;
- (2) developing, reproducing, and distributing printed  
materials to homeowners and other interested groups;
- (3) responding to telephone inquiries on a maintained  
toll-free telephone number;
- (4) providing technical and training information for  
radon measurement and mitigation;
- (5) maintaining and distributing lists of qualified  
persons who perform measurement and mitigation services;
- (6) developing and implementing an effective  
communication strategy to encourage all homeowners to test  
for radon; and
- (7) encouraging cooperative partnerships to promote  
radon testing of buildings and homes.

**NEW SECTION. Section 7.** Radon disclosure statement on real estate documents -- disclosure of prior radon testing -- immunity from liability. (1) After January 1, 1994, a radon disclosure statement must be provided on at least one document, form, or application executed prior to the execution of any contract for the purchase and sale of inhabitable real property. The seller or seller's agent shall provide the following disclosure statement to the buyer, and the buyer shall acknowledge receipt of this disclosure statement by signing a copy of the disclosure statement:

"RADON GAS: RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN MONTANA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY OR STATE PUBLIC HEALTH UNIT."

(2) Whenever a seller knows that a building has been tested for radon gas and radon progeny, the seller shall provide to the buyer, with the contract of sale, a copy of the results of that test and evidence of any subsequent mitigation or treatment. A prospective buyer who contracts for the testing may receive the results of that testing. The furnishing of test results and evidence of mitigation or

treatment is not to be construed as a promise, warranty, or representation of any sort by the seller or the seller's agent that the test results are accurate or that the mitigation or treatment is effective.

(3) A seller or seller's agent who complies with subsections (1) and (2) is not liable in any action based on the presence of radon gas or radon progeny in the building.

**NEW SECTION. Section 8.** Imposition of radon-inhabitable real property transaction fee. A fee of \$10 is imposed on all real estate transactions involving inhabitable real property, as defined in [section 2], prior to recordation under 15-7-305.

**NEW SECTION. Section 9.** Collection of fee and procuring of radon disclosure statement. Before a deed or instrument evidencing a transfer of title subject to the fee imposed in [section 9 8] may be recorded pursuant to 15-7-305, the treasurer of the county where the property or any portion of the property is located shall assess and collect the \$10 fee due from the buyer or the buyer's agent and obtain a disclosure statement signed by the buyer or the buyer's agent as provided in [section 8 7]. The treasurer of the county where the property or any portion of the property is located shall maintain a record of the disclosure statement signed by the buyer or the buyer's agent as set out in [section 8 7].

1 NEW SECTION. Section 10. Disposition of proceeds. (1)  
 2 The proceeds of the fee collected under [section 10 9] must  
 3 be deposited as follows:

4 (a) 15% to the general fund of the county in which the  
 5 certificate required under 15-7-305 is executed, for  
 6 administrative costs of assessing the fee;

7 (b) 20% to the local county health unit of the county  
 8 in which the certificate required under 15-7-305 is  
 9 executed, for radon-related activities consistent with the  
 10 goals of the Montana Radon Control Act; and

11 (c) 65% remitted to the department to be deposited in  
 12 the radon control account established in [section 13 12].

13 (2) The county treasurer of the county in which the  
 14 certificate required under 15-7-305 is executed shall  
 15 transmit on a quarterly basis the proceeds pursuant to  
 16 subsection (1)(c) to the department.

17 NEW SECTION. Section 11. Radon-inhabitable real  
 18 property transfer fee and disclosure statement -- rules. (1)  
 19 The department may prescribe rules that are reasonably  
 20 necessary to facilitate and expedite the provisions and  
 21 administration of the radon-inhabitable real property  
 22 transfer fee provisions, including the imposition,  
 23 collection, and administration of the \$10 fee imposed in  
 24 [section 9 8]. The department may also prescribe rules that  
 25 are reasonably necessary to facilitate and expedite the

1 provisions and administration of signed radon disclosure  
 2 statement requirements provided in [sections 8 7 through 10  
 3 9].

4 (2) The department shall provide an adequate supply of  
 5 disclosure statement forms, as provided for in [section 8  
 6 7], to each county clerk and recorder in the state.

7 NEW SECTION. Section 12. Radon control account. (1)  
 8 There is a radon control account in the state special  
 9 revenue fund. There must be deposited in the account all  
 10 money received from:

11 (a) ~~certification-and-permit~~ TRAINING AND TESTING fees  
 12 collected under [section 3];

13 (b) radon-inhabitable real property transfer fees  
 14 collected under [sections 9 8 and 10 9];

15 ~~(c)--civil-penalties-collected-pursuant-to--(section-14);~~  
 16 and

17 ~~(d)~~ (C) any loans, grants, or other funds or gifts,  
 18 conditional or otherwise, in furtherance of [sections 1  
 19 through 14 12] that are received from the federal government  
 20 and from other sources, public or private.

21 (2) Funds in the account are allocated to the  
 22 department for the purpose of funding the costs of  
 23 implementing and operating the program established under  
 24 [sections 1 through 14 12].

25 NEW SECTION. --Section 14. --Criminal--and-civil-penalties--

1 ---disposition-of-civil-penalties--(1)--The--department--may  
2 suspend, deny, or revoke the certification of a person who:

3 (a)--fraudulently--or--deceptively--obtains--or--attempts--to  
4 obtain--certification;

5 (b)--fails--to--meet--the--qualifications--for--certification  
6 or--comply--with--the--requirements--of--(sections--1--through--14)  
7 or--any--rule--adopted--by--the--department;--or

8 (c)--fails--to--meet--any--applicable--federal--or--state  
9 standard--for--radon--related--occupations;

10 (2)--A--person--who--purposely--or--knowingly--violates--any  
11 provision--of--(sections--1--through--14)--or--an--adopted--rule--or  
12 order--issued--pursuant--to--(sections--1--through--14)--is--guilty  
13 of--a--misdemeanor;

14 (3)--If--the--department--determines--that--a--violation--of  
15 (sections--1--through--14)--or--an--adopted--rule--or--order--issued  
16 pursuant--to--(sections--1--through--14)--has--occurred,--it--may  
17 issue--an--order--compelling--the--person--receiving--the--order--to  
18 end--the--violation--immediately;

19 (4)--In--addition--to--or--instead--of--the--remedies--listed--in  
20 subsections--(1)--through--(3),--a--certified--person--who  
21 purposely--or--knowingly--violates--(sections--1--through--14)--or  
22 an--adopted--rule--or--order--issued--pursuant--to--(sections--1  
23 through--14)--may--be--assessed--by--the--district--court--a--civil  
24 penalty--of--not--more--than--\$1,000--a--day--for--an--initial  
25 violation--and--\$5,000--a--day--for--each--subsequent--violation

1 occurring--within--a--3--year--period--from--the--date--of--the  
2 initial--violation;

3 (5)--A--district--court--may--assess--a--civil--penalty--of--not  
4 more--than--\$10,000--a--day--upon--a--person--who--is--engaged--in--a  
5 radon--related--occupation--without--valid--certification;--In--the  
6 case--of--a--continuing--violation,--each--day--the--violation  
7 continues--constitutes--a--separate--violation;

8 (6)--Civil--penalties--collected--under--this--section--must  
9 be--deposited--into--the--account--established--in--(section--13);

10 **Section 13.** Section 15-7-305, MCA, is amended to read:

11 "15-7-305. Realty transfer certificate required. (1)  
12 The county clerk and recorder shall cause to be executed by  
13 the parties to the transaction or their agents or  
14 representatives a certificate declaring the consideration  
15 paid or to be paid for the real estate transferred.

16 (2) No An instrument or deed evidencing a transfer of  
17 real estate may not be accepted for recordation until the  
18 certificate has been received by the county clerk and  
19 recorder and the radon-inhabitable real property transfer  
20 fee imposed by [section 9 8] is collected pursuant to  
21 [section 10 9] and the signed disclosure statement provided  
22 for in [section 8 7] is received. The validity or  
23 effectiveness of an instrument or deed as between the  
24 parties to it shall not be affected by the failure to comply  
25 with the provisions in this part.

(3) The form of certificate shall be prescribed by the department of revenue, and the department shall provide an adequate supply of such forms to each county clerk and recorder in the state.

(4) The clerk and recorder shall prepare a like certificate for each contract for deed filed for recording.

(5) The clerk and recorder shall transmit each executed certificate to the department."

**Section 16.** Section 2-8-202, MCA, is amended to read:

"2-8-202. Definitions. In this part, the following definitions apply:

(1) "Applicant" means the persons or organization proposing state licensing for an occupation or profession;

(2) "Committee" means the legislative audit committee;

(3) "License" means a permit, certificate, approval, registration, charter, or other form of permission required by law as a condition of practicing a profession or occupation;

(4) "Licensing" means a regulatory process that includes but is not limited to the grant, denial, renewal, revocation, suspension, annulment, withdrawal, limitation, transfer, or amendment of a license;

(5) "Licensing board";

(a) means an office, position, commission, or any other entity or instrumentality of the executive branch of state

government that is responsible for licensing members of an occupation or profession;

(b) does not mean:

(i) an office, position, commission, or other entity or instrumentality of the executive branch of state government that is required by federal law to issue a license or that may, as a result of issuing the license, receive as an integral part of a regulatory program a delegation of primary enforcement responsibility for a program established by state and federal law; or

(ii) an office, position, commission, or other entity or instrumentality of the executive branch of state government that would issue a license pursuant to an identified imminent threat to public health of a known human carcinogen, including radon or radon progeny."

**NEW SECTION. Section 14.** Codification instruction.

[Sections 1 through 14 12] are intended to be codified as an integral part of Title 75, chapter 3, and the provisions of Title 75, chapter 3, apply to [sections 1 through 14 12].

**NEW SECTION. Section 18.** Coordination instruction. If--

House Bill No. 107 is passed and approved and if it repeals section 2-8-202, then {section 16 of this act}, amending 2-8-202, is void and all language in the title and statement of intent of {this act} that refers to 2-8-202 is void;

**NEW SECTION. Section 15.** Saving clause. [This act]

1 does not affect rights and duties that matured, penalties  
2 that were incurred, or proceedings that were begun before  
3 [the effective date of this act].

4 NEW SECTION. **Section 16.** Severability. If a part of  
5 [this act] is invalid, all valid parts that are severable  
6 from the invalid part remain in effect. If a part of [this  
7 act] is invalid in one or more of its applications, the part  
8 remains in effect in all valid applications that are  
9 severable from the invalid applications.

10 NEW SECTION. **Section 17.** Effective date. [This act] is  
11 effective on passage and approval.

-End-

RE-REFERRED AND  
APPROVED BY COMMITTEE  
ON APPROPRIATIONS

HOUSE BILL NO. 585

INTRODUCED BY COCCHIARELLA, DRISCOLL, DOHERTY, RYE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A  
CERTIFICATION AN EDUCATIONAL PROGRAM FOR PERSONS PROVIDING  
RADON MEASUREMENT AND MITIGATION SERVICES; PROVIDING--A  
PERMITTING---PROCESS---FOR---PERSONS---PROVIDING---MITIGATION  
SERVICES; PROVIDING RULEMAKING AUTHORITY TO THE DEPARTMENT  
OF HEALTH AND ENVIRONMENTAL SCIENCES TO ESTABLISH RADON  
MEASUREMENT AND MITIGATION CERTIFICATION EDUCATIONAL PROGRAM  
CRITERIA AND-A-PERMITTING--PROCESS; REQUIRING--A--CERTIFIED  
PERSON--TO--DISCLOSE PROVIDING FOR VOLUNTARY DISCLOSURE OF  
RADON INFORMATION TO THE DEPARTMENT FOR CONDUCTING  
LEGITIMATE SCIENTIFIC STUDIES; AUTHORIZING THE DEPARTMENT TO  
INSPECT--RECORDS--OF--ANY--PERSON--ENGAGED--IN--A--RADON--RELATED  
OCCUPATION; ESTABLISHING A PUBLIC EDUCATION AND OUTREACH  
PROGRAM; REQUIRING NOTIFICATION OF RADON HAZARDS ON REAL  
ESTATE TRANSACTIONS; ASSESSING--A--RADON--INHABITABLE--REAL  
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THE--FEE--PROCEEDS; PROVIDING AN APPROPRIATION; ESTABLISHING A  
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CREATING-AN-EXCEPTION-TO-THE-DEFINITION-OF-"LICENSING-BOARD"  
UNDER-2-8-203-FOR-AN-IMMINENT-THREAT-TO-PUBLIC-HEALTH--FROM  
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AMENDING SECTIONS 2-8-202 AND SECTION--15-7-305, MCA; AND  
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19 ~~process--for--persons--providing--mitigation--services,~~  
20 instituting a public education and outreach program, and  
21 assessing a radon-inhabitable real property transaction fee.  
22 The department shall institute a AN EDUCATION program of  
23 certification for persons who perform radon progeny testing  
24 or carry out remedial radon mitigation measures ~~in-order-to~~  
25 ~~protect--the--public--from--unqualified--or--unscrupulous~~

1 ~~consultants---and--firms--The--department--is--required--to~~  
2 ~~establish-a-permitting-process-for-radon-mitigation-projects~~  
3 ~~to-ensure-that-projects-are-completed-in-a-manner-to-protect~~  
4 ~~the-public--health.~~ The department is also required to  
5 develop a comprehensive public education and outreach  
6 program for radon to encourage testing and mitigation. The  
7 department shall prescribe rules that are reasonably  
8 necessary for the imposition, collection, and administration  
9 of a \$10 radon-inhabitable real property transaction fee.  
10 ~~{This--act}--creates--an--exception--to--the--definition--of~~  
11 ~~"licensing--board"--under--2-8-202--because--radon-and-radon~~  
12 ~~progeny-are-some-of-the-few-known-human-carcinogens-that-are~~  
13 ~~an-imminent-threat-to-public-health- THE DEPARTMENT SHALL~~  
14 PUBLISH A LISTING OF THOSE PERSONS THAT HAVE SUCCESSFULLY  
15 COMPLETED RADON TRAINING AND TESTING REQUIREMENTS.

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

18 NEW SECTION. Section 1. Short title. [Sections 1  
19 through 14 12 8] may be cited as the "Montana Radon Control  
20 Act".

21 NEW SECTION. Section 2. Definitions. As used in  
22 [sections 1 through 14 12 8], the following definitions  
23 apply:

24 ~~{1}--"Certification"--means--a-certificate-issued-by-the~~  
25 ~~department-that-permits-a-person-to-work-in-a--radon-related~~

1 ~~occupation.~~

2       ~~{2}{1}~~ "Department" means the department of health and  
3 environmental sciences.

4       ~~{3}{2}~~ "Inhabitable real property" means any real  
5 property that includes a building affixed to land.

6       ~~{4}{3}~~ "Mitigation project" means to repair or alter a  
7 building or design for the purpose, in whole or in part, of  
8 reducing the concentration of radon in the indoor  
9 atmosphere.

10       ~~{5}{4}~~ "Person" means an individual, partnership,  
11 corporation, sole proprietorship, firm, enterprise,  
12 franchise, association, consultant, state or municipal  
13 agency, political subdivision of the state, or any other  
14 entity.

15       ~~{6}{5}~~ "Radon" means any of the gaseous radioactive  
16 decay products of uranium or thorium.

17       ~~{7}{6}~~ "Radon progeny" means any of the radioactive  
18 decay products of radon.

19       ~~{8}{7}~~ "Radon-related occupation" means the occupation  
20 of any person who performs radon gas or radon progeny  
21 measurements, including sample collection, analysis, or  
22 interpretation of those measurements or who performs radon  
23 gas or radon progeny mitigation.

24       ~~{9}--"Stationary--laboratory"--means--a--laboratory--with~~  
25 ~~equipment--that--is--not--mobile--or--to--which--samples--must--be~~

1 ~~sent-for-analysis.~~

2       ~~NEW SECTION. Section 3. Rulemaking authority --~~  
3 ~~certification--standards--and--procedures-----issuance---of~~  
4 ~~permits CRITERIA FOR TRAINING AND TESTING -- PROFICIENCY~~  
5 ~~LISTING. {1} The department shall adopt rules establishing~~  
6 ~~standards and procedures for certification--of EDUCATING~~  
7 ~~persons ENGAGED in radon-related occupations and-control--of~~  
8 ~~the--work-performed-by-persons-in-radon-related-occupations.~~  
9 The rules must be consistent with federal law and must  
10 include but are not limited to:

11       ~~{a}{1}~~ standards for review and approval of training  
12 courses;

13       ~~{b}--qualifications-and-minimum-experience-requirements~~  
14       ~~(2) CRITERIA FOR PUBLISHING A LISTING OF PERSONS~~  
15 ~~ENGAGED IN A RADON-RELATED OCCUPATION WHO HAVE SUCCESSFULLY~~  
16 ~~COMPLETED TRAINING AND TESTING REQUIREMENTS ESTABLISHED BY~~  
17 ~~THE DEPARTMENT;~~

18       ~~{c}{3}~~ proficiency testing requirements;

19       ~~{d}{4}~~ requirements for renewal--of--certification,  
20 including periodic refresher courses TO MAINTAIN PROFICIENCY  
21 LISTING ELIGIBILITY;

22       ~~{e}--criteria-for-decertification;~~

23       ~~{f}--inspection--requirements---for---radon---mitigation~~  
24 ~~projects-and-radon-related-occupation-credentials;~~

25       ~~{g}--criteria--to--determine--whether--and--what-type-of~~

control--measures--are--necessary--for--a--radon--mitigation project--and--whether--a--project--is--completed--in--a--manner sufficient--to--protect--public--health;

{h}--requirements---for--issuance--of--radon--mitigation project--permits--and--conditions--that--the--permitholder--shall meet;

{i}--advance--notification--procedures--and--issuance--of permits--for--radon--mitigation--projects;

{j}--standards--for--seeking--injunctions,--criminal--and civil--penalties,--or--emergency--actions; and

{k}(5) fees, which must be commensurate with costs of programs under [sections 1 through 14 ~~12~~ 8], for:

{i}(A) review and approval of training courses AND APPLICABLE TESTS;

{ii}--application--for--and--renewal--of--certification;

{iii}--issuance--of--radon--mitigation--project--permits;

{iv}--requested--inspections--of--radon--mitigation--projects;

and

{v}(B) public education programs concerning radon.

{2}--(a)--For--radon--mitigation--projects--having--a--cost--of \$3,500--or--less,--a--certified--person--in--a--radon--related occupation---may--obtain--permits--for--multiple--mitigation projects--in--advance--from--the--department--for--an--appropriate fee;

{b}--The--department--shall--from--time--to--time--conduct--spot

inspections--to--ensure--that--mitigation--projects--having--a--cost of--\$3,500--or--less--are--completed--in--a--manner--to--protect public--health;

NEW SECTION. Section 4. "CERTIFICATION RADON EDUCATION AND PROFICIENCY LISTING requirements ---restrictions. {i}-To qualify--for--certification IN ORDER TO BE PUBLICLY LISTED AS PROFICIENT BY THE DEPARTMENT IN A RADON-RELATED OCCUPATION,  
a person shall:

{a}(1) successfully complete a radon measurement or mitigation course approved by the department; and

{b}(2) pass an examination approved by the department.

{2}--Except--as--provided--in--subsection--{3},--after--January 17, 1994,--a--person--may--not:

{a}--engage--in--a--radon--related--occupation--unless certified--by--the--department;--or

{b}--offer--a--training--course--for--a--radon--related occupation--to--meet--the--certification--requirements--of--this section--unless--the--department--approves--the--course;

{3}--Subsection--{2}--does--not--apply--to:

{a}--a--person--performing--radon--testing--or--mitigation--on a--building--that--the--person--owns--or--occupies;

{b}--a--nonprofit--organization--disseminating--radon information;

{c}--nonprofit--radon--research--activities;

{d}--a--person--in--training--for--a--time--period--established

1 by rule under direct supervision of a person certified under  
2 {sections 1 through 14}, or

3 (e) a stationary laboratory that is listed as  
4 proficient on the United States environmental protection  
5 agency radon measurement proficiency program and that is  
6 supervised by an individual who has a bachelor of science  
7 degree in radio chemistry, physics, or health physics.

8 NEW SECTION. Section 5. DISCLOSURE VOLUNTARY  
9 DISCLOSURE of information to department. (1) The results of  
10 measurements of radon gas or radon progeny performed by a  
11 person certified by the department must MAY be reported to  
12 the department and to the persons contracting for the  
13 service. The report must MAY include the radon levels  
14 detected and the location and description of the building.

15 (2) Except for use in conducting legitimate scientific  
16 studies, as determined by the department, data and  
17 information relating to radon gas and radon progeny  
18 contamination at nonpublic properties, including residential  
19 dwellings, gathered under {sections 1 through 14 12 8} must  
20 be considered confidential by the department. THE DEPARTMENT  
21 SHALL PROVIDE THE BUREAU OF MINES AND GEOLOGY WITH ALL  
22 INFORMATION RECEIVED BY THE DEPARTMENT UNDER SUBSECTION (1)  
23 FOR CONDUCTING LEGITIMATE SCIENTIFIC STUDIES. The department  
24 may not release the data or information in its possession to  
25 anyone other than the owner or occupant of the property.

1 NEW SECTION. Section 6. Records inspection and  
2 maintenance. (1) Authorized representatives of the  
3 department may inspect the business and records of a person  
4 engaged in a radon-related occupation. Inspections may occur  
5 at all reasonable times. Inspections may include an  
6 examination of records, test procedures, and mitigation  
7 project procedures to determine compliance with this part.  
8 (2) A person engaged in a radon mitigation project  
9 shall maintain the records required by department rule  
10 concerning the nature of the project activities.

11 NEW SECTION. Section 6. Public information and  
12 education. The department shall initiate and administer a  
13 program designed to educate and inform the public concerning  
14 radon gas and radon progeny. The program must include but is  
15 not limited to:

- 16 (1) public presentations to interested parties;
- 17 (2) developing, reproducing, and distributing printed
- 18 materials to homeowners and other interested groups;
- 19 (3) responding to telephone inquiries on a maintained
- 20 toll-free telephone number;
- 21 (4) providing technical and training information for
- 22 radon measurement and mitigation;
- 23 (5) maintaining and distributing lists of qualified
- 24 persons who perform measurement and mitigation services;
- 25 (6) developing and implementing an effective

1 communication strategy to encourage all homeowners to test  
2 for radon; and

3 (7) encouraging cooperative partnerships to promote  
4 radon testing of buildings and homes.

5 NEW SECTION. **Section 7.** Radon disclosure statement on  
6 real estate documents -- disclosure of prior radon testing  
7 -- immunity from liability. (1) After January 1, 1994, a  
8 radon disclosure statement must be provided on at least one  
9 document, form, or application executed prior to the  
10 execution of any contract for the purchase and sale of  
11 inhabitable real property. The seller or seller's agent  
12 shall provide the following disclosure statement to the  
13 buyer, and the buyer shall acknowledge receipt of this  
14 disclosure statement by signing a copy of the disclosure  
15 statement:

16 "RADON GAS: RADON IS A NATURALLY OCCURRING RADIOACTIVE  
17 GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN  
18 SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS  
19 WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED  
20 FEDERAL GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN MONTANA.  
21 ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY  
22 BE OBTAINED FROM YOUR COUNTY OR STATE PUBLIC HEALTH UNIT."

23 (2) Whenever a seller knows that a building has been  
24 tested for radon gas and radon progeny, the seller shall  
25 provide to the buyer, with the contract of sale, a copy of

1 the results of that test and evidence of any subsequent  
2 mitigation or treatment. A prospective buyer who contracts  
3 for the testing may receive the results of that testing. The  
4 furnishing of test results and evidence of mitigation or  
5 treatment is not to be construed as a promise, warranty, or  
6 representation of any sort by the seller or the seller's  
7 agent that the test results are accurate or that the  
8 mitigation or treatment is effective.

9 (3) A seller or seller's agent who complies with  
10 subsections (1) and (2) is not liable in any action based on  
11 the presence of radon gas or radon progeny in the building.

12 ~~NEW SECTION:--Section-8--Imposition-----of~~  
13 ~~radon-inhabitable-real-property-transaction-fee.--A--fee--of~~  
14 ~~\$10--is--imposed--on--all-real-estate-transactions-involving~~  
15 ~~inhabitable-real-property,--as-defined-in-{section-2}-prior~~  
16 ~~to-recording-under-15-7-305.~~

17 ~~NEW SECTION:--Section-9--Collection----of----fee----and~~  
18 ~~procuring--of--radon--disclosure-statement--Before-a-deed-or~~  
19 ~~instrument-evidencing-a-transfer-of-title-subject-to-the-fee~~  
20 ~~imposed-in--{section-9-8}--may--be--recorded--pursuant--to~~  
21 ~~15-7-305,--the-treasurer-of-the-county-where-the-property-or~~  
22 ~~any-portion-of-the-property--is--located--shall--assess--and~~  
23 ~~collect--the-\$10-fee-due-from-the-buyer-or-the-buyer's-agent~~  
24 ~~and-obtain-a-disclosure-statement-signed-by-the-buyer-or-the~~  
25 ~~buyer's-agent-as-provided-in-{section-8-2}.--The-treasurer-of~~

the county where the property or any portion of the property is located shall maintain a record of the disclosure statement signed by the buyer or the buyer's agent as set out in {section 8-7}.

NEW SECTION. Section 10. Disposition of proceeds. (1) The proceeds of the fee collected under {section 10-9} must be deposited as follows:

(a) 15% to the general fund of the county in which the certificate required under 15-7-305 is executed, for administrative costs of assessing the fee;

(b) 20% to the local county health unit of the county in which the certificate required under 15-7-305 is executed, for radon-related activities consistent with the goals of the Montana Radon Control Act; and

(c) 65% remitted to the department to be deposited in the radon control account established in {section 13-12}.

(2) The county treasurer of the county in which the certificate required under 15-7-305 is executed shall transmit on a quarterly basis the proceeds pursuant to subsection (1)(c) to the department.

NEW SECTION. Section 11. Radon-inhabitable real property transfer fee and disclosure statement rules. (1) The department may prescribe rules that are reasonably necessary to facilitate and expedite the provisions and administration of the radon-inhabitable real property

transfer fee provisions, including the imposition, collection, and administration of the \$10 fee imposed in {section 9-8}. The department may also prescribe rules that are reasonably necessary to facilitate and expedite the provisions and administration of signed radon disclosure statement requirements provided in {sections 8-7 through 10-9}.

(2) The department shall provide an adequate supply of disclosure statement forms as provided for in {section 8-7}, to each county clerk and recorder in the state.

#### NEW SECTION. Section 8. Radon control account. (1)

There is a radon control account in the state special revenue fund. There must be deposited in the account all money received from:

(a) certification and permit TRAINING AND TESTING fees collected under {section 3};

(b) radon-inhabitable real property transfer fees collected under {sections 9-8 and 10-9};

(c) civil penalties collected pursuant to {section 14}, and

(d) (e) (B) any loans, grants, or other funds or gifts, conditional or otherwise, in furtherance of {sections 1 through 14 12 8} that are received from the federal government and from other sources, public or private.

(2) Funds in the account are allocated to the

department for the purpose of funding the costs of implementing and operating the program established under [sections 1 through 14 12 8].

**NEW SECTION. Section 14. Criminal and civil penalties--**

**disposition of civil penalties:--(1) The department may suspend, deny, or revoke the certification of a person who:**

**(a) fraudulently or deceptively obtains or attempts to obtain certification;**

**(b) fails to meet the qualifications for certification or comply with the requirements of {sections 1 through 14} or any rule adopted by the department; or**

**(c) fails to meet any applicable federal or state standard for radon-related occupations;**

**(2) A person who purposely or knowingly violates any provision of {sections 1 through 14} or an adopted rule or order issued pursuant to {sections 1 through 14} is guilty of a misdemeanor;**

**(3) If the department determines that a violation of {sections 1 through 14} or an adopted rule or order issued pursuant to {sections 1 through 14} has occurred, it may issue an order compelling the person receiving the order to end the violation immediately;**

**(4) In addition to or instead of the remedies listed in subsections {1} through {3}, a certified person who purposely or knowingly violates {sections 1 through 14} or**

**an adopted rule or order issued pursuant to {sections 1 through 14} may be assessed by the district court a civil penalty of not more than \$1,000 a day for an initial violation and \$5,000 a day for each subsequent violation occurring within a 3-year period from the date of the initial violation;**

**(5) A district court may assess a civil penalty of not more than \$10,000 a day upon a person who is engaged in a radon-related occupation without valid certification in the case of a continuing violation; each day the violation continues constitutes a separate violation;**

**(6) Civil penalties collected under this section must be deposited into the account established in {section 13};**

**Section 13. Section 15-7-305, MCA, is amended to read:--**

**"15-7-305. Realty transfer certificate required.--(1) The county clerk and recorder shall cause to be executed by the parties to the transaction or their agents or representatives a certificate declaring the consideration paid or to be paid for the real estate transferred;**

**(2) No An instrument or deed evidencing a transfer of real estate may not be accepted for recordation until the certificate has been received by the county clerk and recorder and the radon inhabitable real property transfer fee imposed by {section 9-8} is collected pursuant to {section 10-9} and the signed disclosure statement provided**

~~for in {section 8 7} is received. The validity or effectiveness of an instrument or deed as between the parties to it shall not be affected by the failure to comply with the provisions in this part.~~

~~{3} The form of certificate shall be prescribed by the department of revenue, and the department shall provide an adequate supply of such forms to each county clerk and recorder in the state.~~

~~{4} The clerk and recorder shall prepare a like certificate for each contract for deed filed for recording.~~

~~{5} The clerk and recorder shall transmit each executed certificate to the department.~~

**Section 16.** ~~Section 2-8-202, MCA, is amended to read:~~

~~"2-8-202, Definitions. In this part, the following definitions apply:~~

~~{1} "Applicant" means the persons or organization proposing state licensing for an occupation or profession.~~

~~{2} "Committee" means the legislative audit committee.~~

~~{3} "License" means a permit, certificate, approval, registration, charter, or other form of permission required by law as a condition of practicing a profession or occupation.~~

~~{4} "Licensing" means a regulatory process that includes but is not limited to the grant, denial, renewal, revocation, suspension, annulment, withdrawal, limitation,~~

~~transfer, or amendment of a license.~~

~~{5} "Licensing board"~~

~~{a} means an office, position, commission, or any other entity or instrumentality of the executive branch of state government that is responsible for licensing members of an occupation or profession;~~

~~{b} does not mean:~~

~~{i} an office, position, commission, or other entity or instrumentality of the executive branch of state government that is required by federal law to issue a license or that may, as a result of issuing the license, receive as an integral part of a regulatory program a delegation of primary enforcement responsibility for a program established by state and federal law; or~~

~~{ii} an office, position, commission, or other entity or instrumentality of the executive branch of state government that would issue a license pursuant to an identified imminent threat to public health of a known human carcinogen, including radon or radon progeny."~~

**NEW SECTION. SECTION 9. APPROPRIATION. THERE IS APPROPRIATED FROM THE RECLAMATION AND DEVELOPMENT GRANTS STATE SPECIAL REVENUE FUND \$50,000 FOR THE BIENNIUM ENDING JUNE 30, 1995, TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES FOR THE PURPOSE OF ADMINISTERING AND CONTRACTING WITH THE BUREAU OF MINES AND GEOLOGY FOR THE IMPLEMENTATION**

OF [SECTIONS 1 THROUGH 8]. THE DEPARTMENT SHALL CONTRACT  
WITH THE BUREAU OF MINES AND GEOLOGY FOR PURPOSES OF  
IMPLEMENTING THE PROVISIONS OF [SECTIONS 1 THROUGH 8].

NEW SECTION. **Section 10.** Codification instruction.  
[Sections 1 through ~~14~~ 12 8] are intended to be codified as  
an integral part of Title 75, chapter 3, and the provisions  
of Title 75, chapter 3, apply to [sections 1 through ~~14~~ 12  
8].

~~NEW SECTION. Section 18. Coordination instruction. If--  
House--Bill--No--107--is--passed--and--approved--and--if--it--repeals  
section--2--8--202,--then--{section--16--of--this--act},--amending  
2--8--202,--is--void--and--all--language--in--the--title--and--statement  
of--intent--of--{this--act}--that--refers--to--2--8--202--is--void.~~

NEW SECTION. **Section 11.** Saving clause. [This act]  
does not affect rights and duties that matured, penalties  
that were incurred, or proceedings that were begun before  
[the effective date of this act].

NEW SECTION. **Section 12.** Severability. If a part of  
[this act] is invalid, all valid parts that are severable  
from the invalid part remain in effect. If a part of [this  
act] is invalid in one or more of its applications, the part  
remains in effect in all valid applications that are  
severable from the invalid applications.

NEW SECTION. **Section 13.** Effective date. [This act] is  
effective on passage-and-approval JULY 1, 1993.

## HOUSE BILL NO. 585

INTRODUCED BY COCCHIARELLA, DRISCOLL, DOHERTY, RYE

1 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A  
 2 CERTIFICATION AN EDUCATIONAL PROGRAM FOR PERSONS PROVIDING  
 3 RADON MEASUREMENT AND MITIGATION SERVICES; PROVIDING--A  
 4 PERMITTING---PROCESS---FOR---PERSONS---PROVIDING--MITIGATION  
 5 SERVICES; PROVIDING RULEMAKING AUTHORITY TO THE DEPARTMENT  
 6 OF HEALTH AND ENVIRONMENTAL SCIENCES TO ESTABLISH RADON  
 7 MEASUREMENT AND MITIGATION CERTIFICATION EDUCATIONAL PROGRAM  
 8 CRITERIA AND--A--PERMITTING--PROCESS; REQUIRING--A--CERTIFIED  
 9 PERSON--TO--DISCLOSE PROVIDING FOR VOLUNTARY DISCLOSURE OF  
 10 RADON INFORMATION TO THE DEPARTMENT FOR CONDUCTING  
 11 LEGITIMATE SCIENTIFIC STUDIES; AUTHORIZING--THE--DEPARTMENT--TO  
 12 INSPECT--RECORDS--OF--ANY--PERSON--ENGAGED--IN--A--RADON--RELATED  
 13 OCCUPATION; ESTABLISHING A PUBLIC EDUCATION AND OUTREACH  
 14 PROGRAM; REQUIRING NOTIFICATION OF RADON HAZARDS ON REAL  
 15 ESTATE TRANSACTIONS; ASSESSING A RADON-INHABITABLE REAL  
 16 PROPERTY TRANSACTION FEE; PROVIDING FOR THE DISTRIBUTION OF  
 17 THE FEE PROCEEDS; ESTABLISHING A RADON CONTROL ACCOUNT IN  
 18 THE SPECIAL REVENUE FUND; PROVIDING--PENALTIES--FOR--FRAUDULENT  
 19 RADON--TESTING--AND--REPORTING;--CREATING--AN--EXCEPTION--TO--THE  
 20 DEFINITION---OF---"LICENSING--BOARD"---UNDER--2-8-203--FOR--AN  
 21 IMMINENT--THREAT--TO--PUBLIC--HEALTH---FROM---KNOWN---HUMAN  
 22 CARCINOGENS;--INCLUDING--RADON--OR--RADON--PROGENY; AMENDING

1 ~~SECTIONS-2-8-202-AND SECTION 15-7-305, MCA; AND PROVIDING AN~~  
 2 ~~IMMEDIATE EFFECTIVE DATE."~~

4 WHEREAS, radon is an odorless, colorless, tasteless,  
 5 radioactive gas that occurs naturally in soil gas,  
 6 underground water, and outdoor air;

7 WHEREAS, radon gas enters homes and buildings through  
 8 exposures in foundations, decays to form radon progeny, and,  
 9 unless exposed to the atmosphere, accumulates in structures  
 10 and becomes hazardous to human health;

11 WHEREAS, prolonged exposure to elevated concentrations  
 12 of radon decay products has been associated with increases  
 13 in the risk of lung cancer;

14 WHEREAS, only four states in the country rank higher  
 15 than Montana in the percentage of homes that exceed the  
 16 United States Environmental Protection Agency action  
 17 guidance of 4 picocuries per liter;

18 WHEREAS, property owners in affected areas should have

THERE ARE NO CHANGES IN THIS BILL  
 AND WILL NOT BE REPRINTED. PLEASE  
 REFER TO YELLOW COPY FOR COMPLETE TEXT.

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 13 OCCUPATION; ESTABLISHING A PUBLIC EDUCATION AND OUTREACH  
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 16 PROPERTY-TRANSACTION-FEE; PROVIDING FOR THE DISTRIBUTION--OF  
 17 THE-FEE-PROCESSES; PROVIDING AN APPROPRIATION; ESTABLISHING A  
 18 RADON CONTROL ACCOUNT IN THE SPECIAL REVENUE FUND; PROVIDING  
 19 PENALTIES---FOR--FRAUDULENT--RADON--TESTING--AND--REPORTING;  
 20 CREATING--AN-EXCEPTION-TO-THE-DEFINITION-OF--"LICENSING-BOARD"  
 21 UNDER-2-6-203-FOR-AN-IMMINENT-THREAT-TO-PUBLIC-HEALTH--FROM  
 22 KNOWN--HUMAN--CARCINOGENS; INCLUDING RADON OR RADON PROGENY;

1 ~~AMENDING SECTIONS 2-6-202 AND SECTION 15-7-305, NEA, AND~~  
 2 ~~PROVIDING AN IMMEDIATE EFFECTIVE DATE."~~

4 WHEREAS, radon is an odorless, colorless, tasteless,  
 5 radioactive gas that occurs naturally in soil gas,  
 6 underground water, and outdoor air;

7 WHEREAS, radon gas enters homes and buildings through  
 8 exposures in foundations, decays to form radon progeny, and,  
 9 unless exposed to the atmosphere, accumulates in structures  
 10 and becomes hazardous to human health;

11 WHEREAS, prolonged exposure to elevated concentrations  
 12 of radon decay products has been associated with increases  
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 15 than Montana in the percentage of homes that exceed the  
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SENATE STANDING COMMITTEE REPORT

Page 1 of 2  
April 6, 1993

Page 2 of 2  
April 6, 1993

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 585 (third reading copy -- blue, second printing), respectfully report that House Bill No. 585 be amended as follows and as so amended be concurred in.

Signed: *Dorothy Eck*

Senator Dorothy Eck, Chair

That such amendments read:

1. Title, lines 4 through 11.

Strike: "ESTABLISHING" on line 4 through "CRITERIA" on line 11

Insert: "PROVIDING FOR RECOGNITION OF A UNITED STATES

ENVIRONMENTAL PROTECTION AGENCY PROFICIENCY LISTING FOR  
PERSONS WHO PROVIDE RADON TESTING AND MITIGATION SERVICES"

2. Page 3, lines 10 through 12.

Strike: "EDUCATE" on line 10 through "TECHNOLOGY" on line 12

Insert: "provide for recognition of a United States environmental  
protection agency proficiency listing for persons who  
provide radon testing and mitigation services"

3. Page 3, line 14 through page 4, line 15.

Strike: statement of intent in its entirety

4. Page 6, line 2 through page 8, line 3.

Strike: section 3 in its entirety

Renumber: subsequent sections

5. Page 8, lines 4 and 5.

Strike: "EDUCATION" on line 4 through "AND" on line 5

Insert: "testing and mitigation"

6. Page 8, line 8.

Strike: ":"

7. Page 8, lines 9 and 10.

Strike: subsection (1) in its entirety

8. Page 8, line 11.

Strike: "(2)"

Strike: "an"

Insert: "a United States environmental protection agency  
proficiency"

9. Page 14, line 14.

Strike: ":"

10. Page 14, lines 15 and 16.

Strike: subsection (a) in its entirety

11. Page 14, line 20.

Strike: "and"

12. Page 14, line 21.

Strike: "(B)"

13. Page 4, lines 19 and 22.

Page 9, line 19.

Page 14, line 23.

Page 15, line 3.

Page 19, lines 1, 3, 5, and 8.

Strike: "8"

Insert: "7"

-END-

*Am* Amd. Coord.  
*m* Sec. of Senate

*Sen. Rye*  
Senator Carrying Bill

770927SC.San

SENATE

*HB 585*  
770927SC.San

1 HOUSE BILL NO. 585  
2 INTRODUCED BY COCCHIARELLA, DRISCOLL, DOHERTY, RYE  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING--A  
5 CERTIFICATION-AN-EDUCATIONAL-PROGRAM-FOR--PERSONS--PROVIDING  
6 RADON--MEASUREMENT--AND--MITIGATION--SERVICES;--PROVIDING--A  
7 PERMITTING---PROCESS---FOR---PERSONS---PROVIDING--MITIGATION  
8 SERVICES;--PROVIDING-RULEMAKING-AUTHORITY-TO--THE--DEPARTMENT  
9 OF--HEALTH--AND--ENVIRONMENTAL--SCIENCES--TO-ESTABLISH-RADON  
10 MEASUREMENT-AND-MITIGATION-CERTIFICATION-EDUCATIONAL-PROGRAM  
11 CRITERIA PROVIDING FOR RECOGNITION OF A UNITED STATES  
12 ENVIRONMENTAL PROTECTION AGENCY PROFICIENCY LISTING FOR  
13 PERSONS WHO PROVIDE RADON TESTING AND MITIGATION SERVICES  
14 AND--A--PERMITTING--PROCESS; REQUIRING-A-CERTIFIED-PERSON-TO  
15 DISCLOSE PROVIDING FOR VOLUNTARY DISCLOSURE OF RADON  
16 INFORMATION TO THE DEPARTMENT FOR CONDUCTING LEGITIMATE  
17 SCIENTIFIC STUDIES; AUTHORIZING-THE-DEPARTMENT--TO--INSPECT  
18 RECORDS-OF-ANY-PERSON-ENGAGED-IN-A-RADON-RELATED-OCCUPATION;  
19 ESTABLISHING A PUBLIC EDUCATION AND OUTREACH PROGRAM;  
20 REQUIRING NOTIFICATION OF RADON HAZARDS ON REAL ESTATE  
21 TRANSACTIONS; ASSESSING--A--RADON-INHABITABLE-REAL-PROPERTY  
22 TRANSACTION-FEE;--PROVIDING-FOR-THE-DISTRIBUTION-OF--THE--FEE  
23 PROCEEDS; PROVIDING AN APPROPRIATION; ESTABLISHING A RADON  
24 CONTROL ACCOUNT IN THE SPECIAL REVENUE FUND; PROVIDING  
25 PENALTIES---FOR--FRAUDULENT--RADON--TESTING--AND--REPORTING;

1 ~~CREATING-AN-EXCEPTION-TO-THE-DEFINITION-OF-"LICENSING-BOARD"~~  
2 ~~UNDER-2-8-203-FOR-AN-IMMINENT-THREAT-TO-PUBLIC-HEALTH--FROM~~  
3 ~~KNOWN--HUMAN--CARCINOGENS;--INCLUDING-RADON-OR-RADON-PROGENY;~~  
4 ~~AMENDING-SECTIONS-2-8-202-AND--SECTION--15-7-305;--MEA; AND~~  
5 ~~PROVIDING AN IMMEDIATE EFFECTIVE DATE."~~  
6

7 WHEREAS, radon is an odorless, colorless, tasteless,  
8 radioactive gas that occurs naturally in soil gas,  
9 underground water, and outdoor air;

10 WHEREAS, radon gas enters homes and buildings through  
11 exposures in foundations, decays to form radon progeny, and,  
12 unless exposed to the atmosphere, accumulates in structures  
13 and becomes hazardous to human health;

14 WHEREAS, prolonged exposure to elevated concentrations  
15 of radon decay products has been associated with increases  
16 in the risk of lung cancer;

17 WHEREAS, only four states in the country rank higher  
18 than Montana in the percentage of homes that exceed the  
19 United States Environmental Protection Agency action  
20 guidance of 4 picocuries per liter;

21 WHEREAS, property owners in affected areas should have  
22 their residences and other buildings tested to determine  
23 radon levels;

24 WHEREAS, property owners do contract for services to  
25 measure and reduce radon levels in specific buildings;

WHEREAS, other states' experiences with radon testing and with mitigation companies have proved that the possibility exists for fraudulent operations;

WHEREAS, public education and access to information concerning radon will protect the public health; and

WHEREAS, notification of the presence of radon to persons acquiring or selling real estate will protect the public health.

THEREFORE, the Legislature of the State of Montana finds it essential to protect the public health, safety, and welfare through public education concerning radon and through real estate transaction notification and to ensure EDUCATE--that--radon--service--providers--are--qualified--to perform--RADON--services--rendered--COMPATIBLE--WITH--THE--MOST CURRENT--TECHNOLOGY PROVIDE FOR RECOGNITION OF A UNITED STATES ENVIRONMENTAL PROTECTION AGENCY PROFICIENCY LISTING FOR PERSONS WHO PROVIDE RADON TESTING AND MITIGATION SERVICES.

#### STATEMENT-OF-INTENT

A-statement-of-intent-is-required-for-this-bill-in-order to--provide--the--department--of--health--and--environmental sciences-guidance-in-certifying-EDUCATING-persons-conducting radon-testing--and--mitigation,--establishing--a--permitting process---for---persons---providing---mitigation---services,

instituting--a--public--education--and--outreach-program,--and assessing-a-radon-inhabitable-real-property-transaction-fee. The-department-shall-institute-a--AN--EDUCATION--program--of certification--for--persons-who-perform-radon-progeny-testing or-carry-out-remedial-radon-mitigation-measures-in-order--to protect---the---public---from--unqualified--or--unscrupulous consultants--and--firms. The--department--is--required---to establish-a-permitting-process-for-radon-mitigation-projects to-ensure-that-projects-are-completed-in-a-manner-to-protect the--public--health. The--department--is--also--required-to develop--a--comprehensive--public--education--and---outreach program--for--radon-to-encourage-testing-and-mitigation. The department--shall--prescribe--rules--that---are---reasonably necessary-for-the-imposition, collection, and-administration of--a--\$10--radon-inhabitable-real-property-transaction-fee. {This--act}--creates--an--exception--to--the--definition--of "licensing-board"--under--2-8-202--because--radon--and--radon progeny-are-some-of-the-few-known-human-carcinogens-that-are an--imminent--threat--to-public-health. THE-DEPARTMENT-SHALL PUBLISH-A-LISTING-OF-THOSE-PERSONS--THAT--HAVE--SUCCESSFULLY COMPLETED-RADON-TRAINING-AND-TESTING-REQUIREMENTS.

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

NEW SECTION. Section 1. Short title. [Sections 1 through 14 12 0 7] may be cited as the "Montana Radon

1 Control Act".

2 NEW SECTION. Section 2. Definitions. As used in  
3 [sections 1 through ~~14~~ 12 ~~8~~ 7], the following definitions  
4 apply:

5 ~~{1}--"Certification"--means-a-certificate-issued-by-the~~  
6 ~~department--that-permits-a-person-to-work-in-a-radon-related~~  
7 ~~occupation;~~

8 ~~{2}{1}~~ "Department" means the department of health and  
9 environmental sciences.

10 ~~{3}{2}~~ "Inhabitable real property" means any real  
11 property that includes a building affixed to land.

12 ~~{4}{3}~~ "Mitigation project" means to repair or alter a  
13 building or design for the purpose, in whole or in part, of  
14 reducing the concentration of radon in the indoor  
15 atmosphere.

16 ~~{5}{4}~~ "Person" means an individual, partnership,  
17 corporation, sole proprietorship, firm, enterprise,  
18 franchise, association, consultant, state or municipal  
19 agency, political subdivision of the state, or any other  
20 entity.

21 ~~{6}{5}~~ "Radon" means any of the gaseous radioactive  
22 decay products of uranium or thorium.

23 ~~{7}{6}~~ "Radon progeny" means any of the radioactive  
24 decay products of radon.

25 ~~{8}{7}~~ "Radon-related occupation" means the occupation

1 of any person who performs radon gas or radon progeny  
2 measurements, including sample collection, analysis, or  
3 interpretation of those measurements or who performs radon  
4 gas or radon progeny mitigation.

5 ~~{9}--"Stationary-laboratory"--means--a--laboratory--with~~  
6 ~~equipment--that--is--not--mobile--or--to--which--samples--must--be~~  
7 ~~sent--for--analysis;~~

8 ~~NEW-SECTION--Section-3--Rulemaking--authority-----~~  
9 ~~certification--standards--and--procedures-----issuance--of~~  
10 ~~permits--CRITERIA-FOR-TRAINING--AND--TESTING-----PROFICIENCY~~  
11 ~~TESTING--{1}--The-department-shall-adopt-rules-establishing~~  
12 ~~standards-and-procedures--for--certification--of--EDUCATING~~  
13 ~~persons--ENGAGED-in-radon-related-occupations-and-control-of~~  
14 ~~the-work-performed-by-persons-in-radon-related-occupations;~~  
15 ~~The-rules--must--be--consistent--with--federal-law-and-must~~  
16 ~~include-but-are-not-limited-to:~~

17 ~~{a}{1}--standards-for-review-and-approval--of--training~~  
18 ~~courses;~~

19 ~~{b}--qualifications-and-minimum-experience-requirements~~  
20 ~~{2}--CRITERIA--FOR--PUBLISHING--A--LISTING--OF--PERSONS~~  
21 ~~ENGAGED-IN-A-RADON-RELATED-OCCUPATION-WHO-HAVE--SUCCESSFULLY~~  
22 ~~COMPLETED--TRAINING--AND--TESTING-REQUIREMENTS--ESTABLISHED-BY~~  
23 ~~THE-DEPARTMENT;~~

24 ~~{c}{3}--proficiency-testing-requirements;~~

25 ~~{d}{4}--requirements--for--renewal--of--certification;~~

1 including periodic refresher courses TO MAINTAIN PROFICIENCY  
 2 LISTING ELIGIBILITY;

3 (e) criteria for decertification;

4 (f) inspection requirements for radon mitigation  
 5 projects and radon-related occupation credentials;

6 (g) criteria to determine whether and what type of  
 7 control measures are necessary for a radon mitigation  
 8 project and whether a project is completed in a manner  
 9 sufficient to protect public health;

10 (h) requirements for issuance of radon mitigation  
 11 project permits and conditions that the permit holder shall  
 12 meet;

13 (i) advance notification procedures and issuance of  
 14 permits for radon mitigation projects;

15 (j) standards for seeking injunctions, criminal and  
 16 civil penalties, or emergency actions; and

17 (k) (5) fees, which must be commensurate with costs of  
 18 programs under sections 1 through 14-12-8, for:

19 (i) (A) review and approval of training courses AND  
 20 APPLICABLE TESTS;

21 (ii) application for and renewal of certification;

22 (iii) issuance of radon mitigation project permits;

23 (iv) requested inspections of radon mitigation projects;

24 and

25 (v) (B) public education programs concerning radon;

1 (2) (a) For radon mitigation projects having a cost of  
 2 \$3,500 or less, a certified person in a radon-related  
 3 occupation may obtain permits for multiple mitigation  
 4 projects in advance from the department for an appropriate  
 5 fee.

6 (b) The department shall from time to time conduct spot  
 7 inspections to ensure that mitigation projects having a cost  
 8 of \$3,500 or less are completed in a manner to protect  
 9 public health.

10 NEW SECTION. Section 3. Certification RADON EDUCATION  
 11 AND TESTING AND MITIGATION PROFICIENCY LISTING requirements  
 12 ---restrictions. (1) To qualify for certification IN ORDER  
 13 TO BE PUBLICLY LISTED AS PROFICIENT BY THE DEPARTMENT IN A  
 14 RADON-RELATED OCCUPATION, a person shall:

15 (a) (1) successfully complete a radon measurement or  
 16 mitigation course approved by the department; and

17 (b) (2) pass an A UNITED STATES ENVIRONMENTAL PROTECTION  
 18 AGENCY PROFICIENCY examination approved by the department.

19 (2) Except as provided in subsection (3), after January  
 20 17, 1994, a person may not:

21 (a) engage in a radon-related occupation unless  
 22 certified by the department; or

23 (b) offer a training course for a radon-related  
 24 occupation to meet the certification requirements of this  
 25 section unless the department approves the course.

1       ~~{3}--Subsection-(2)-does-not-apply-to:~~  
2       ~~{a}--a--person-performing-radon-testing-or-mitigation-on~~  
3       ~~a-building-that-the-person-owns-or-occupies;~~  
4       ~~{b}--a--nonprofit--organization--disseminating--radon~~  
5       ~~information;~~  
6       ~~{c}--nonprofit-radon-research-activities;~~  
7       ~~{d}--a--person-in-training-for-a-time-period-established~~  
8       ~~by-rule-under-direct-supervision-of-a-person-certified-under~~  
9       ~~{sections-1-through-14};-or~~  
10       ~~{e}--a--stationary--laboratory--that--is--listed--as~~  
11       ~~proficient--on--the--United--States-environmental-protection~~  
12       ~~agency-radon-measurement-proficiency-program--and--that--is~~  
13       ~~supervised--by--an--individual-who-has-a-bachelor-of-science~~  
14       ~~degree-in-radio-chemistry,physics,or-health-physics;~~

15       NEW SECTION. Section 4. DISCLOSURE       VOLUNTARY  
16       DISCLOSURE of information to department. (1) The results of  
17       measurements of radon gas or radon progeny performed by a  
18       person certified-by-the-department-must MAY be reported to  
19       the department and--to--the--persons--contracting--for-the  
20       service. The report must MAY include the radon levels  
21       detected and the location and description of the building.  
22       (2) Except for use in conducting legitimate scientific  
23       studies, as determined by the department, data and  
24       information relating to radon gas and radon progeny  
25       contamination at nonpublic properties, including residential

1       dwellings, gathered under [sections 1 through 14 12 8 7]  
2       must be considered confidential by the department. THE  
3       DEPARTMENT SHALL PROVIDE THE BUREAU OF MINES AND GEOLOGY  
4       WITH ALL INFORMATION RECEIVED BY THE DEPARTMENT UNDER  
5       SUBSECTION (1) FOR CONDUCTING LEGITIMATE SCIENTIFIC STUDIES.  
6       The department may not release the data or information in  
7       its possession to anyone other than the owner or occupant of  
8       the property.

9       NEW SECTION. Section 6. Records----inspection----and--  
10       maintenance--(1)--Authorized--representatives--of--the  
11       department-may-inspect-the-business-and-records-of-a--person  
12       engaged-in-a-radon-related-occupation--inspections-may-occur  
13       at--all--reasonable--times--inspections--may--include--an  
14       examination-of--records,--test--procedures,--and--mitigation  
15       project-procedures-to-determine-compliance-with-this-part;  
16       ~~{2}--A--person--engaged--in--a--radon-mitigation-project~~  
17       ~~shall-maintain--the--records--required--by--department--rule~~  
18       ~~concerning-the-nature-of-the-project-activities.~~

19       NEW SECTION. Section 5. Public information and  
20       education. The department shall initiate and administer a  
21       program designed to educate and inform the public concerning  
22       radon gas and radon progeny. The program must include but is  
23       not limited to:  
24       (1) public presentations to interested parties;  
25       (2) developing, reproducing, and distributing printed

materials to homeowners and other interested groups;

(3) responding to telephone inquiries on a maintained toll-free telephone number;

(4) providing technical and training information for radon measurement and mitigation;

(5) maintaining and distributing lists of qualified persons who perform measurement and mitigation services;

(6) developing and implementing an effective communication strategy to encourage all homeowners to test for radon; and

(7) encouraging cooperative partnerships to promote radon testing of buildings and homes.

**NEW SECTION. Section 6. Radon disclosure statement on real estate documents -- disclosure of prior radon testing -- immunity from liability.** (1) After January 1, 1994, a radon disclosure statement must be provided on at least one document, form, or application executed prior to the execution of any contract for the purchase and sale of inhabitable real property. The seller or seller's agent shall provide the following disclosure statement to the buyer, and the buyer shall acknowledge receipt of this disclosure statement by signing a copy of the disclosure statement:

"RADON GAS: RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN

SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN MONTANA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY OR STATE PUBLIC HEALTH UNIT."

(2) Whenever a seller knows that a building has been tested for radon gas and radon progeny, the seller shall provide to the buyer, with the contract of sale, a copy of the results of that test and evidence of any subsequent mitigation or treatment. A prospective buyer who contracts for the testing may receive the results of that testing. The furnishing of test results and evidence of mitigation or treatment is not to be construed as a promise, warranty, or representation of any sort by the seller or the seller's agent that the test results are accurate or that the mitigation or treatment is effective.

(3) A seller or seller's agent who complies with subsections (1) and (2) is not liable in any action based on the presence of radon gas or radon progeny in the building.

**NEW-SECTION--Section-8--Imposition-----of  
radon-inhabitable--real--property--transaction-fee--A-fee-of  
\$10-is-imposed-on-all--real--estate--transactions--involving  
inhabitable--real-property,--as-defined-in--section-2--prior  
to-recording-under-15-7-305.**

**NEW-SECTION--Section-9--Collection-----of-----fee-----and**

1 procuring-of-radon-disclosure-statement; Before--a--deed--or  
 2 instrument-evidencing-a-transfer-of-title-subject-to-the-fee  
 3 imposed--in--{section--9--8}--may--be--recorded--pursuant-to  
 4 15-7-305; the-treasurer-of-the-county-where-the-property--or  
 5 any--portion--of--the--property--is-located-shall-assess-and  
 6 collect-the-\$10-fee-due-from-the-buyer-or-the-buyer's-agent  
 7 and-obtain-a-disclosure-statement-signed-by-the-buyer-or-the  
 8 buyer's-agent-as-provided-in-{section-8-7}; The-treasurer-of  
 9 the-county-where-the-property-or-any-portion-of-the-property  
 10 is--located--shall--maintain--a--record--of--the--disclosure  
 11 statement--signed--by--the-buyer-or-the-buyer's-agent-as-set  
 12 out-in-{section-8-7};

13 NEW-SECTION:--Section-10:--Disposition-of-proceeds:--(1)  
 14 The--proceeds-of-the-fee-collected-under-{section-10-9}-must  
 15 be-deposited-as-follows:

16 (a)--15%--to--the-general-fund-of-the-county-in-which--the  
 17 certificate---required---under---15-7-305---is--executed;--for  
 18 administrative-costs-of-assessing-the-fee;

19 (b)--20%--to--the-local-county-health-unit-of--the--county  
 20 in---which---the--certificate--required--under--15-7-305--is  
 21 executed;--for-radon-related-activities-consistent--with--the  
 22 goals-of-the-Montana-Radon-Control-Act;--and

23 (c)--65%--remitted--to--the-department-to-be-deposited-in  
 24 the-radon-control-account-established-in-{section-13-12};

25 (2)--The-county-treasurer-of-the-county--in--which--the

1 certificate---required---under---15-7-305---is--executed--shall  
 2 transmit-on-a--quarterly--basis--the--proceeds--pursuant--to  
 3 subsection-(1)(c)-to-the-department;

4 NEW-SECTION:--Section-11:--Radon-inhabitable-----real  
 5 property-transfer-fee-and-disclosure-statement----rules:--(1)  
 6 The--department--may--prescribe--rules--that--are-reasonably  
 7 necessary-to-facilitate--and--expedite--the--provisions--and  
 8 administration---of---the--radon-inhabitable--real--property  
 9 transfer---fee---provisions;--including---the---imposition;  
 10 collection;--and-administration-of-the--\$10--fee--imposed--in  
 11 {section--9-8}; The-department-may-also-prescribe-rules-that  
 12 are-reasonably-necessary--to--facilitate--and--expedite--the  
 13 provisions--and--administration--of--signed-radon-disclosure  
 14 statement-requirements-provided-in-{sections-8-7-through--10  
 15 9};

16 (2)--The--department-shall-provide-an-adequate-supply-of  
 17 disclosure-statement-forms;--as-provided-for--in--{section--6  
 18 7};--to--each-county-clerk-and-recorder-in-the-state;

19 NEW SECTION. Section 7. Radon control account. (1)  
 20 There is a radon control account in the state special  
 21 revenue fund. There must be deposited in the account all  
 22 money received from;

23 (a)--certification-and-permit-TRAINING-AND-TESTING--fees  
 24 collected-under-{section-3};

25 (b)--radon-inhabitable---real---property--transfer--fees

1 collected-under-{sections-9-8-and-10-9};  
 2 {c}--civil-penalties-collected-pursuant-to-{section-14};  
 3 and  
 4 {d}{e}{B} any loans, grants, or other funds or gifts,  
 5 conditional or otherwise, in furtherance of [sections 1  
 6 through 14 12 8 7] that are received from the federal  
 7 government and from other sources, public or private.  
 8 (2) Funds in the account are allocated to the  
 9 department for the purpose of funding the costs of  
 10 implementing and operating the program established under  
 11 [sections 1 through 14 12 8 7].  
 12 **NEW-SECTION--Section-14.--Criminal-and-civil--penalties--**  
 13 **---disposition--of--civil-penalties--{1}--The-department-may**  
 14 **suspend,deny,or-revoke-the-certification-of-a-person-who:**  
 15 **{a}--fraudulently-or-deceptively-obtains-or-attempts--to**  
 16 **obtain-certification;**  
 17 **{b}--fails--to-meet-the-qualifications-for-certification**  
 18 **or-comply-with-the-requirements-of-{sections-1--through--14}**  
 19 **or-any-rule-adopted-by-the-department;or**  
 20 **{c}--fails--to--meet--any--applicable--federal--or-state**  
 21 **standard-for-radon-related-occupations;**  
 22 **{2}--A-person-who-purposefully-or-knowingly-violates--any**  
 23 **provision--of--{sections-1-through-14}-or-an-adopted-rule-or**  
 24 **order-issued-pursuant-to-{sections-1-through-14}--is-guilty**  
 25 **of-a-misdemeanor;**

1 {3}--if--the--department--determines-that-a-violation-of  
 2 {sections-1-through-14}-or-an-adopted-rule-or--order--issued  
 3 pursuant--to--{sections--1--through-14}-has-occurred, it may  
 4 issue-an-order-compelling-the-person-receiving-the-order--to  
 5 end-the-violation-immediately;  
 6 {4}--In-addition-to-or-instead-of-the-remedies-listed-in  
 7 subsections---{1}---through---{3},--a--certified--person--who  
 8 purposely-or-knowingly-violates-{sections-1-through--14}--or  
 9 an--adopted--rule--or--order--issued-pursuant-to-{sections-1  
 10 through-14}-may-be-assessed-by-the-district--court--a--civil  
 11 penalty--of--not--more--than--\$1,000--a--day--for-an-initia  
 12 violation-and-\$5,000-a-day--for--each--subsequent--violation  
 13 occurring--within--a--3-year--period--from--the--date-of-the  
 14 initial-violation;  
 15 {5}--A-district-court-may-assess-a-civil-penalty-of--not  
 16 more--than--\$10,000--a-day-upon-a-person-who-is-engaged-in-a  
 17 radon-related-occupation-without-valid-certification--in-the  
 18 case-of-a--continuing--violation,--each--day--the--violation  
 19 continues-constitutes-a-separate-violation;  
 20 {6}--Civil--penalties--collected-under-this-section-must  
 21 be-deposited-into-the-account-established-in-{section-13};  
 22 **Section-13.--Section-15-7-305,MEA, is amended to read:--**  
 23 **"15-7-305.--Realty-transfer--certificate--required,--{1}**  
 24 **The--county-clerk-and-recorder-shall-cause-to-be-executed-by**  
 25 **the--parties--to--the--transaction--or---their---agents---or**

representatives--a--certificate--declaring--the--consideration  
paid--or--to--be--paid--for--the--real--estate--transferred;

{2}--No--~~An~~--instrument--or--deed--evidencing--a--transfer--of  
real--estate--may--not--be--accepted--for--recording--until--the  
certificate--has--been--received--by--the--county--clerk--and  
recorder--and--the--~~radon-inhabitable-real-property-transfer~~  
fee--imposed--by--{section--9--8}--is--collected--pursuant--to  
{section--10-9}--and--the--signed--disclosure--statement--provided  
for--in--{section--8--7}--is--received;--The--validity--or  
effectiveness--of--an--instrument--or--deed--as--between--the  
parties--to--it--shall--not--be--affected--by--the--failure--to--comply  
with--the--provisions--in--this--part;

{3}--The--form--of--certificate--shall--be--prescribed--by--the  
department--of--revenue;--and--the--department--shall--provide--an  
adequate--supply--of--such--forms--to--each--county--clerk--and  
recorder--in--the--state;

{4}--The--clerk--and--recorder--shall--prepare--a--like  
certificate--for--each--contract--for--deed--filed--for--recording;

{5}--The--clerk--and--recorder--shall--transmit--each--executed  
certificate--to--the--department."

**Section 16.**--Section 2-8-202, MCA, is amended to read:--

"2-8-202. Definitions:--In--this--part,--the--following  
definitions--apply:

{1}--"Applicant"--means--the--persons--or--organization  
proposing--state--licensing--for--an--occupation--or--profession;

{2}--"Committee"--means--the--legislative--audit--committee;

{3}--"License"--means--a--permit,--certificate,--approval,  
registration,--charter,--or--other--form--of--permission--required  
by--law--as--a--condition--of--practicing--a--profession--or  
occupation;

{4}--"Licensing"--means--a--regulatory--process--that  
includes--but--is--not--limited--to--the--grant,--denial,--renewal,  
revocation,--suspension,--annulment,--withdrawal,--limitation,  
transfer,--or--amendment--of--a--license;

{5}--"Licensing board";

{a}--means--an--office,--position,--commission,--or--any--other  
entity--or--instrumentality--of--the--executive--branch--of--state  
government--that--is--responsible--for--licensing--members--of--an  
occupation--or--profession;

{b}--does--not--mean;

{1}--an--office,--position,--commission,--or--other--entity--or  
instrumentality--of--the--executive--branch--of--state--government  
that--is--required--by--federal--law--to--issue--a--license--or--that  
may,--as--a--result--of--issuing--the--license,--receive--as--an  
integral--part--of--a--regulatory--program--a--delegation--of  
primary--enforcement--responsibility--for--a--program--established  
by--state--and--federal--law,--or

{1}--an--office,--position,--commission,--or--other--entity--or  
instrumentality--of--the--executive--branch--of--state--government  
that--would--issue--a--license--pursuant--to--an--identified

1 ~~imminent---threat---to---public--health--of--a--known--human~~  
 2 ~~carcinogen,including-radon-or-radon-progeny."~~

3 NEW SECTION. SECTION 8. APPROPRIATION. THERE IS  
 4 APPROPRIATED FROM THE RECLAMATION AND DEVELOPMENT GRANTS  
 5 STATE SPECIAL REVENUE FUND \$50,000 FOR THE BIENNIUM ENDING  
 6 JUNE 30, 1995, TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL  
 7 SCIENCES FOR THE PURPOSE OF ADMINISTERING AND CONTRACTING  
 8 WITH THE BUREAU OF MINES AND GEOLOGY FOR THE IMPLEMENTATION  
 9 OF [SECTIONS 1 THROUGH 8 7]. THE DEPARTMENT SHALL CONTRACT  
 10 WITH THE BUREAU OF MINES AND GEOLOGY FOR PURPOSES OF  
 11 IMPLEMENTING THE PROVISIONS OF [SECTIONS 1 THROUGH 8 7].

12 NEW SECTION. Section 9. Codification instruction.  
 13 [Sections 1 through 14 12 8 7] are intended to be codified  
 14 as an integral part of Title 75, chapter 3, and the  
 15 provisions of Title 75, chapter 3, apply to [sections 1  
 16 through 14 12 8 7].

17 ~~NEW-SECTION--Section-18--Coordination-instruction--if--~~  
 18 ~~House--Bill-No--107-is-passed-and-approved-and-if-it-repeals~~  
 19 ~~section-2-8-2027-then-{section-16--of--this--act}7--amending~~  
 20 ~~2-8-2027-is-void-and-all-language-in-the-title-and-statement~~  
 21 ~~of-intent-of-{this-act}-that-refers-to-2-8-202-is-void-~~

22 NEW SECTION. Section 10. Saving clause. [This act]  
 23 does not affect rights and duties that matured, penalties  
 24 that were incurred, or proceedings that were begun before  
 25 [the effective date of this act].

1 NEW SECTION. Section 11. Severability. If a part of  
 2 [this act] is invalid, all valid parts that are severable  
 3 from the invalid part remain in effect. If a part of [this  
 4 act] is invalid in one or more of its applications, the part  
 5 remains in effect in all valid applications that are  
 6 severable from the invalid applications.

7 NEW SECTION. Section 12. Effective date. [This act] is  
 8 effective on passage-and-approval JULY 1, 1993.

-End-