

1 House BILL NO. 432
 2 INTRODUCED BY Wiseman

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING THE RECOMMENDATION OF THE GOVERNOR'S
 5 TASK FORCE TO RENEW MONTANA GOVERNMENT BY TRANSFERRING FIRE PREVENTION AND
 6 INVESTIGATION FROM THE DEPARTMENT OF JUSTICE TO THE DEPARTMENT OF COMMERCE;
 7 TRANSFERRING BOILER SAFETY AND INSPECTIONS FROM THE DEPARTMENT OF LABOR AND INDUSTRY
 8 TO THE DEPARTMENT OF COMMERCE; AMENDING SECTIONS 2-15-1519, 2-15-2108, 2-17-112,
 9 2-18-626, 45-8-332, 50-3-101, 50-3-102, 50-3-103, 50-3-109, 50-5-115, 50-37-107, 50-39-101,
 10 50-39-102, 50-39-103, 50-39-104, 50-39-106, 50-39-107, 50-61-102, 50-61-106, 50-61-112,
 11 50-61-113, 50-61-114, 50-61-115, 50-61-117, 50-61-118, 50-61-121, 50-62-101, 50-62-102,
 12 50-62-103, 50-62-104, 50-62-105, 50-62-106, 50-62-107, 50-62-110, 50-74-101, 52-2-733, 52-2-734,
 13 52-3-304, 52-4-204, 52-4-205, 53-1-104, 53-20-307, 75-11-302, AND 77-5-104, MCA; REPEALING
 14 SECTION 2-15-2005, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

17
 18 NEW SECTION. **Section 1. State fire prevention and investigation program -- advisory council.** (1)
 19 There is a state fire prevention and investigation program in the department of commerce.

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

23 (3) The governor shall create a fire prevention and investigation advisory council in accordance with
 24 procedures provided in 2-15-122.

25
 26 **Section 2.** Section 2-15-1519, MCA, is amended to read:

27 **"2-15-1519. Fire services training advisory council.** (1) The board of regents shall appoint a fire
 28 services training advisory council to work with the director of the fire services training school. The
 29 membership of the council ~~shall~~ must include the following:

30 (a) a fire chief;

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

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

9 (3) Members appointed shall serve for a 4-year ~~term~~ terms and may be removed for cause. If a
10 vacancy occurs, a member ~~shall~~ must be appointed to fill the unexpired term. A member may be
11 reappointed.

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

16 **Section 3.** Section 2-15-2108, MCA, is amended to read:

17 **"2-15-2108. Petroleum tank release compensation board.** (1) There is a petroleum tank release
18 compensation board.

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

20 (a) the director of the department of health and environmental sciences or ~~his~~ the director's
21 representative;

22 (b) a representative of the state fire prevention and investigation program of the department of
23 ~~justice~~ commerce;

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

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

26 (e) a representative of the general public;

27 (f) a representative of service station dealers; and

28 (g) a representative of the insurance industry.

29 (3) The board shall elect a ~~chairman~~ presiding officer.

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

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

3
 4 **Section 4.** Section 2-17-112, MCA, is amended to read:

5 **"2-17-112. Fire protection for state-owned buildings -- department of administration -- state fire**
 6 **prevention and investigation program.** (1) The department of administration shall obtain information
 7 necessary to prepare a budget for each biennium for fire protection services for state-owned buildings that
 8 present particular firefighting problems as determined by the state fire prevention and investigation program
 9 of the department of ~~justice~~ commerce. In preparing the budget, the state may consider providing protection
 10 directly or contracting for protection with a local fire service and making payments to local governments
 11 for fire services provided to state agencies, all of which are subject to appropriation by the legislature.

12 (2) The department of ~~justice~~ commerce shall review provisions for protection of state-owned
 13 buildings in connection with inspections conducted under 50-3-102."

14
 15 **Section 5.** Section 2-18-626, MCA, is amended to read:

16 **"2-18-626. ~~Department~~ Employees of departments of justice and commerce employees -- payment**
 17 **of compensation for time spent answering subpoena.** A department of justice or department of commerce
 18 employee must receive all regular duty pay and benefits for time spent answering a subpoena in a civil or
 19 criminal cause when called to testify in connection with the employee's official duties. The department of
 20 justice or department of commerce may bill the person or organization requesting issuance of the subpoena
 21 for reimbursement for the employee's time."

22
 23 **Section 6.** Section 45-8-332, MCA, is amended to read:

24 **"45-8-332. Definitions.** (1) "Destructive device", as used in this chapter, includes but is not limited
 25 to the following weapons:

26 (a) a projectile containing an explosive or incendiary material or any other similar chemical
 27 substance, including but not limited to that which is commonly known as tracer or incendiary ammunition,
 28 except tracer ammunition manufactured for use in shotguns;

29 (b) a bomb, grenade, explosive missile, or similar device or a launching device therefor;

30 (c) a weapon of a caliber greater than .60 caliber ~~which~~ that fires fixed ammunition or any

1 ammunition ~~therefor~~ for the weapon, other than a shotgun or shotgun ammunition;

2 (d) a rocket, rocket-propelled projectile, or similar device of a diameter greater than 0.60 inch or
3 a launching device therefor and a rocket, rocket-propelled projectile, or similar device containing an
4 explosive or incendiary material or any other similar chemical substance other than the propellant for the
5 device, except devices designed primarily for emergency or distress signaling purposes;

6 (e) a breakable container ~~which~~ that contains a flammable liquid with a flashpoint of 150 degrees
7 Fahrenheit or less and ~~which~~ that has a wick or similar device capable of being ignited, other than a device
8 ~~which~~ that is commercially manufactured primarily for the purpose of illumination.

9 (2) "Explosive", as used in this chapter, means any explosive defined in rules adopted by the
10 department of ~~justice~~ commerce pursuant to 50-3-102(3)."

11
12 **Section 7.** Section 50-3-101, MCA, is amended to read:

13 **"50-3-101. Definitions.** In this chapter, "department" means the department of ~~justice~~ commerce
14 and "fire prevention and investigation program" means the state fire prevention and investigation program
15 of the department of ~~justice~~ commerce provided for in ~~2-15-2005~~ [section 1]."

16
17 **Section 8.** Section 50-3-102, MCA, is amended to read:

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

20 (a) inspect each unit of the Montana university system and other state buildings, including state
21 institutions, as often as its budget and other inspection duties allow, but ~~ne~~ not more frequently than once
22 each year unless requested by the commissioner of higher education for buildings in the university system,
23 by the department of corrections and human services for state institutions, or by the department of
24 administration for all other state buildings. A copy of the inspection report for units of the university system
25 must be given to the commissioner of higher education, a copy of the inspection report for state institutions
26 must be given to the department of corrections and human services, and a copy of the inspection report
27 for all other state buildings must be given to the department of administration. The department of ~~justice~~
28 shall advise the commissioner of higher education and the directors of the departments of corrections and
29 human services and administration concerning fire prevention, fire protection, and public safety when it
30 distributes the reports.

1 (b) inspect public, business, or industrial buildings, as provided in chapter 61, and require
2 conformance to law and rules promulgated under the provisions of this chapter;

3 (c) assist local fire and law enforcement authorities in ~~arson~~ fire investigations and may initiate or
4 supervise these investigations when, in its judgment, the initiation or supervision is necessary;

5 (d) provide fire prevention and fire protection information to public officials and the general public;

6 (e) serve as the state entity primarily responsible for promoting fire safety at the state level;

7 (f) encourage coordination of all services and agencies in fire prevention matters to reduce
8 duplication and fill voids in services;

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

11 (h) keep a record of all fires occurring in the state, the origin of the fires, and all facts, statistics,
12 and circumstances relating to the fires that have been determined by investigations under the provisions
13 of chapter 63. Except for statements of witnesses given during an investigation, information that may be
14 held in confidence under 50-63-403, and criminal justice information subject to restrictions on dissemination
15 in accordance with Title 44, chapter 5, the record must be open at all times to public inspection.

16 (2) The department may adopt rules necessary for safeguarding life and property from the hazards
17 of fire and carrying into effect the fire prevention laws of this state.

18 (3) The department shall adopt rules based on nationally recognized standards necessary for
19 safeguarding life and property from the hazards associated with the manufacture, transportation, storage,
20 sale, and use of explosive materials.

21 (4) If necessary to safeguard life and property under rules promulgated pursuant to this section,
22 the department may maintain an action to enjoin the use of all or a portion of a building or restrain a
23 specific activity until there is compliance with the rules."
24

25 **Section 9.** Section 50-3-103, MCA, is amended to read:

26 **"50-3-103. Rules promulgated by department.** (1) Rules promulgated by the department by
27 authority of 50-3-102 must be reasonable and calculated to effect the purposes of this chapter. They must
28 include but are not limited to:

29 (a) requirements for design, construction, installation, operation, storage, handling, maintenance,
30 or use of structural requirements for various types of construction;

- 1 **(b)** building restrictions within congested districts;
- 2 **(c)** exit facilities from structures;
- 3 **(d)** fire extinguishers, fire alarm systems, and fire extinguishing systems;
- 4 **(e)** fire emergency drills;
- 5 **(f)** flue and chimney construction;
- 6 **(g)** heating devices;
- 7 **(h)** electrical wiring and equipment;
- 8 **(i)** air conditioning, ventilating, and other duct systems;
- 9 **(j)** refrigeration systems;
- 10 **(k)** flammable liquids;
- 11 **(l)** oil and gas wells;
- 12 **(m)** application of flammable finishes;
- 13 **(n)** explosives, acetylene, liquefied petroleum gas, and similar products;
- 14 **(o)** calcium carbide and acetylene generators;
- 15 **(p)** flammable motion picture film;
- 16 **(q)** combustible fibers;
- 17 **(r)** hazardous chemicals or materials;
- 18 **(s)** rubbish;
- 19 **(t)** open-flame devices;
- 20 **(u)** parking of vehicles;
- 21 **(v)** dust explosions;
- 22 **(w)** lightning protection;
- 23 **(x)** storage of smokeless powder and small arms primers; and
- 24 **(y)** other special fire hazards.
- 25 ~~(2) If rules relate to building and equipment standards covered by the state or a municipal building~~
- 26 ~~code, the rules are effective upon approval of the department of commerce and filing with the secretary~~
- 27 ~~of state.~~
- 28 ~~(3)(2)~~ Federal or other nationally recognized standards for fire protection may be adopted in whole
- 29 or in part by reference.
- 30 ~~(4)(3)~~ Rules must be adopted as prescribed in the Montana Administrative Procedure Act.

1 ~~(5)(4)~~ A person violating any rule made under the provisions of this part is guilty of a
2 misdemeanor."

3

4 **Section 10.** Section 50-3-109, MCA, is amended to read:

5 **"50-3-109. Tax on fire insurance premiums for maintenance of state fire prevention and**
6 **investigation activities of department of justice commerce.** Each insurer authorized to effect insurance on
7 risks enumerated in 19-18-512 doing business in this state shall for maintenance of the state fire prevention
8 and investigation activities of the department pay to the state auditor and commissioner of insurance ~~ex~~
9 ~~office~~ during the month of February or March in each year, in addition to the taxes on premiums required
10 by law to be paid by it, a tax of 1% on the fire portion of the direct premiums on ~~such~~ the risks received
11 during the previous calendar year ~~next preceding~~ after deducting cancellations and return premiums."

12

13 **Section 11.** Section 50-5-115, MCA, is amended to read:

14 **"50-5-115. Receiverships.** (1) If receivership has not already been instituted under medicaid or
15 medicare, upon notice to the facility, the department may file a complaint in district court for receivership
16 under any of the following conditions in addition to applicable conditions listed in 27-20-102:

17 (a) a facility is operating without a license and residents are in danger of serious physical or mental
18 harm;

19 (b) a facility intending to close has not made arrangements within 30 days before closure for the
20 orderly transfer of residents;

21 (c) a facility is abandoned by an owner; or

22 (d) a life threatening situation exists for the residents of the facility.

23 (2) If the department believes or has received notice from the department of commerce that there
24 is an emergency that presents or might present an immediate and serious threat to the health or safety of
25 patients or residents of a facility, a receiver may be appointed by the court upon an ex parte application
26 by the department. If a receiver is appointed upon an ex parte application, notice must be given by the
27 department to the facility within 24 hours of issuance of the receivership order and a hearing must be
28 offered the facility by the court within 10 days of issuance of the order to determine whether the order will
29 be continued.

30 (3) The department shall maintain a list of persons qualified to act as receivers.

1 (4) The selection, appointment, and removal of receivers must be consistent with Title 27, chapter
2 20, parts 2 and 3.

3 (5) Whenever possible, receivers must be paid from the income of the facility; ~~however~~ However,
4 receivers may be paid from the patient protection account provided for in 50-5-232. The court shall direct
5 the amount of payments to be made to the receiver, the payments to be made by the receiver, and the
6 order of payments made to the receiver or to other entities. Payments owed to a facility that are made to
7 the receiver must be used to discharge any obligation of the entity making the payments owed to the
8 facility.

9 (6) The powers and duties of the receiver include:

10 (a) the duty to protect the health, welfare, and safety of the residents;

11 (b) the power to hire, discipline, and fire staff;

12 (c) the power to collect debts due to the facility;

13 (d) the power to settle labor disputes;

14 (e) the power to petition the court to set aside unreasonable contracts or leases entered into by
15 the facility management;

16 (f) the power to make capital investments in the facility with court approval; and

17 (g) all other powers granted receivers by 27-20-302."

18

19 **Section 12.** Section 50-37-107, MCA, is amended to read:

20 "**50-37-107. Supervised public display of fireworks authorized.** (1) The state fire prevention and
21 investigation program of the department of ~~justice~~ commerce or the governing body of a city, town, or
22 county may, under reasonable rules adopted by them, grant permits for supervised public displays of
23 fireworks to be held by municipalities, fair associations, amusement parks, and other organizations or
24 groups of individuals.

25 (2) Each display ~~shall~~ must:

26 (a) be handled by a competent operator, who must be approved by the state fire prevention and
27 investigation program or the governing body of the city, town, or county in which the display is to be held;
28 and

29 (b) be located, discharged, or fired as, in the opinion of the state fire prevention and investigation
30 program or the chief of the fire department or other officer designated by the governing body of the city,

1 town, or county after proper inspection, not to be hazardous to persons or property.

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

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

6 (5) ~~No~~ A permit granted under this section is not transferable."
7

8 **Section 13.** Section 50-39-101, MCA, is amended to read:

9 **"50-39-101. License and endorsements required.** (1) A person or entity shall obtain a license from
10 the department of ~~justice~~ commerce before engaging in the business of servicing fire extinguishers or before
11 engaging in the business of selling, servicing, or installing fire alarm systems, special agent fire suppression
12 systems, or fire extinguishing systems. Each individual, except an apprentice, employed by the licensee to
13 perform services under the license ~~must~~ shall obtain from the department an endorsement to sell, service,
14 or install:

- 15 (a) fire alarm systems;
- 16 (b) special agent fire suppression systems; or
- 17 (c) fire extinguishing systems.

18 (2) The license and endorsement or endorsements must be prominently displayed at the business
19 premises, and copies must be carried by the person conducting each installation or servicing and must be
20 shown to anyone requesting to see them.

21 (3) It is a misdemeanor to knowingly or purposely service a fire extinguisher or sell, service, or
22 install a fire alarm system, special agent fire suppression system, or fire extinguishing system without the
23 required license and endorsement."
24

25 **Section 14.** Section 50-39-102, MCA, is amended to read:

26 **"50-39-102. Application for license and endorsements.** (1) An application for a license and any
27 endorsements must be made on a form prescribed by the department of ~~justice~~ commerce.

28 (2) The department shall annually issue a license and endorsement to an applicant who:

- 29 (a) submits satisfactory proof that the applicant is properly equipped and staffed to provide the
30 sales or services to be licensed and endorsed; and

1 (b) submits satisfactory proof that the applicant is insured to engage in the business covered by
2 the license and endorsement or endorsements.

3 (3) The department shall:

4 (a) issue an endorsement to an applicant who scores a passing grade on an examination devised
5 or approved by the department; and

6 (b) annually renew the endorsement upon payment of the endorsement fee and submission of
7 satisfactory proof that the endorsee has completed continuing education, training, or testing required by
8 the department."

9
10 **Section 15.** Section 50-39-103, MCA, is amended to read:

11 **"50-39-103. Inspections, examinations, and hearings authorized.** The department of ~~justice~~
12 commerce may conduct inspections, examinations, or hearings to determine an applicant's qualifications."
13

14 **Section 16.** Section 50-39-104, MCA, is amended to read:

15 **"50-39-104. Violations and penalties.** The department of ~~justice~~ commerce may deny, revoke,
16 suspend, or refuse to renew a license or endorsement for falsification of an application or for a violation
17 of this part or a rule promulgated by the department under 50-39-107."
18

19 **Section 17.** Section 50-39-106, MCA, is amended to read:

20 **"50-39-106. Deposit of fees.** The fees collected under 50-39-105 must be deposited in an account
21 in the state special revenue fund to the credit of the department of ~~justice~~ commerce and appropriated to
22 the department to administer this part."
23

24 **Section 18.** Section 50-39-107, MCA, is amended to read:

25 **"50-39-107. Rulemaking authority.** The department of ~~justice~~ commerce may adopt rules to
26 implement this part."
27

28 **Section 19.** Section 50-61-102, MCA, is amended to read:

29 **"50-61-102. Department of ~~justice~~ commerce to administer chapter.** (1) The department of ~~justice~~
30 commerce has general charge and supervision of the enforcement of this chapter, and the officers

1 enumerated in 50-61-114 shall act under its general charge and supervision, shall assist the department
2 in giving effect to this chapter, and are subject to its direction and the rules adopted under 50-3-102 and
3 50-3-103 for the enforcement of ~~50-61-120 and 50-61-121~~ and this chapter.

4 (2) Upon its approval of a fire code and a plan for enforcement of the code filed by a municipality
5 or district, the department may certify a municipal or district fire inspection program for local enforcement."
6

7 **Section 20.** Section 50-61-106, MCA, is amended to read:

8 "**50-61-106. Unlawful to obstruct fire exit.** It is unlawful to obstruct in any manner any fire exit,
9 or any hallway, corridor, or entranceway leading to a fire exit, required by rules adopted by the department
10 of ~~justice~~ commerce."

11
12 **Section 21.** Section 50-61-112, MCA, is amended to read:

13 "**50-61-112. Prior approval required for construction or alteration of educational and institutional**
14 **occupancies.** (1) Within an incorporated municipality, an educational or institutional occupancy, whether
15 public or private, may not be constructed or have alterations made costing \$1,500 or more until sketches
16 or architectural plans for the construction or alteration, whichever are available, are submitted to and
17 approved by the state fire prevention and investigation program of the department of ~~justice~~ commerce.

18 (2) Outside an incorporated municipality, an assembly, educational, or institutional occupancy may
19 not be constructed or have alterations made costing \$1,500 or more until a permit has been issued for the
20 construction or alteration by the county commissioners. A fee of \$10 must be paid to the county treasurer
21 for each permit. A copy of the permit must be furnished to the department of revenue. A permit may not
22 be issued until sketches or architectural plans for the construction or alteration, whichever are available,
23 are submitted to and approved by the state fire prevention and investigation program of the department of
24 ~~justice~~ commerce. The state fire prevention and investigation program of the department of ~~justice~~
25 commerce and county sheriffs are responsible for enforcing the provisions of this subsection."
26

27 **Section 22.** Section 50-61-113, MCA, is amended to read:

28 "**50-61-113. Prior approval required for construction of state-owned building designed for human**
29 **occupancy.** A building designed for human occupancy owned or controlled by the state may not be
30 constructed until plans for the construction have been submitted to and approved by the state fire

1 prevention and investigation program of the department of ~~justice~~ commerce."

2
3 **Section 23.** Section 50-61-114, MCA, is amended to read:

4 "50-61-114. **Fire chief and fire inspector to make inspections.** The chief of the fire department of
5 each municipality or district when a fire inspection program is established or a fire inspector of the
6 department of justice commerce when ~~no~~ a fire inspection program ~~exists~~ does not exist, for the purpose
7 of examining the premises for violations of this chapter and rules adopted under 50-3-103 for the
8 enforcement of this chapter:

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

10 (2) may enter into all other buildings and upon all other premises within ~~his~~ the chief's or fire
11 inspector's jurisdiction, according to priority schedules established by the department for conducting
12 inspections of buildings and premises."

13
14 **Section 24.** Section 50-61-115, MCA, is amended to read:

15 "50-61-115. **Notice of violations.** (1) When a building ~~is found that~~ is not in compliance with fire
16 safety rules promulgated by the department of justice commerce, the person making the inspection or the
17 department shall serve a written notice upon the party whose duty it is to maintain the safety of the
18 building.

19 (2) The notice must specify the time within which the defective conditions must be remedied,
20 which may not be more than 90 days.

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

27
28 **Section 25.** Section 50-61-117, MCA, is amended to read:

29 "50-61-117. **Prosecution of violations.** It is the duty of the department of justice commerce or
30 other authorized officer to furnish the county attorney with all evidence of violations of rules adopted by

1 the department within the county where ~~said~~ the violations occur, and, if the evidence discloses the fact
2 that a violation has occurred, it is the duty of the county attorney of the county to prosecute the person
3 committing the violation in the same manner as in other cases."
4

5 **Section 26.** Section 50-61-118, MCA, is amended to read:

6 **"50-61-118. Injunction authorized.** In addition to the other remedies and penalties provided in this
7 chapter, upon the failure of any of the parties charged with the duty to maintain the safety of the building
8 premises in accordance with rules adopted by the department of ~~justice~~ commerce, the attorney general
9 of the state or the county attorney of the county where the building is located shall bring an action against
10 the owner, lessee, and occupants of the building for an injunction enjoining the further occupancy of it until
11 it is in compliance with this chapter. The action may be brought in the county where the building is
12 located."
13

14 **Section 27.** Section 50-61-121, MCA, is amended to read:

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

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

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

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

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

25 (i) It is constructed of material sufficient to achieve a 1-hour fire resistant-rated barrier between
26 the storage area and the customer service area. The smokeless powder must be stored in cabinets made
27 of wood or equivalent material that is at least 1 inch thick, and each cabinet must contain no more than
28 200 pounds of smokeless powder. Cabinets must be separated by 25 feet.

29 (ii) It is protected by a fire suppression sprinkler system approved by the state fire prevention and
30 investigation program of the department of ~~justice~~ commerce or a fire marshal of the local jurisdiction, and

1 the storage area has cabinets as provided for in subsection (1)(d)(i).

2 (iii) Smokeless powder stock is contained in a cabinet with casters and constructed of wood at least
3 1 inch thick that is covered on all sides with 5/8-inch sheetrock.

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

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

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

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

13

14 **Section 28.** Section 50-62-101, MCA, is amended to read:

15 **"50-62-101. Entering of buildings for purpose of examination authorized.** The officers of the state
16 fire prevention and investigation program of the department of ~~justice~~ commerce or the chief of the fire
17 department of each municipality or district where a fire department is established at all reasonable hours
18 may, as authorized by law, enter into all buildings and upon all premises within ~~his~~ their jurisdiction for the
19 purpose of determining whether the building or premise conforms to laws and rules relating to fire hazards
20 and fire safety."

21

22 **Section 29.** Section 50-62-102, MCA, is amended to read:

23 **"50-62-102. Structures or conditions creating fire hazard a public nuisance -- order to remedy. (1)**
24 If any building or other structure that for want of proper repair; by reason of age, dilapidated condition,
25 defective or poorly installed wiring and equipment, defective chimneys, defective gas connections, defective
26 heating apparatus, or the existence of any combustible materials, flammable conditions, or other fire
27 hazards; or for any other cause or reason is especially liable to fire and is dangerous to the safety of the
28 building premises or to the public or is so situated as to endanger other buildings and property in the
29 vicinity, the state fire prevention and investigation program of the department of ~~justice~~ commerce or other
30 officer may declare the building or other structure to be a public nuisance and proceed according to

1 50-62-103 or subsection (2) of this section.

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

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

12

13 **Section 30.** Section 50-62-103, MCA, is amended to read:

14 **"50-62-103. Service of order to repair hazardous condition or demolish structure.** (1) If the fire
15 prevention and investigation program of the department of ~~justice~~ commerce or any officer mentioned in
16 50-62-101, upon an examination or inspection, determines that a building or other structure constitutes
17 a public nuisance for any reason identified in 50-62-102 and the condition cannot be removed or remedied
18 within 24 hours, the program or officer shall order the hazardous condition to be repaired or the structure
19 to be torn down or demolished and all dangerous conditions remedied.

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

25 (3) A copy of the order ~~filed as aforesaid~~, together with a written notice that it has been filed and
26 will be put in force unless the owner, occupant, or tenant ~~shall file~~ files with the clerk of the court ~~his~~ any
27 objections or ~~answer thereto~~ answers to the order within the time specified in 50-62-104, ~~shall~~ must be
28 served upon the owner ~~and or~~ or any purchaser under contract for deed of the building or structure directed
29 to be altered, repaired, or demolished. If there is a tenant occupying the building, service ~~shall~~ must also
30 be made upon ~~him~~ the tenant. Service ~~shall~~ must be made personally upon the owner and occupant, if there

1 is one, ~~personally~~ either within or ~~without~~ outside of the state.

2 (4) If the whereabouts of the owner or any purchaser under contract for deed is unknown and
3 cannot be ascertained by the department of justice commerce by the exercise of reasonable diligence, then
4 upon filing in the office of the clerk of the district court an affidavit to this effect, service of the notice upon
5 the owner or any purchaser under contract for deed may be made by the clerk of the district court by
6 publication of it once ~~in~~ each week for 3 successive weeks in a newspaper printed and published in the
7 county in which the building or structure is located and by posting a copy ~~thereof~~ of the notice in a
8 conspicuous place upon the building or structure, and ~~the~~ service so made is complete upon the expiration
9 of the publication period. Proof of service of the notice ~~shall~~ must be filed in the office of the clerk of the
10 district court within 5 days after ~~the~~ service ~~thereof~~."

11
12 **Section 31.** Section 50-62-104, MCA, is amended to read:

13 "**50-62-104. Answer of owner or occupant.** (1) The owner ~~of any building so condemned~~ or any
14 occupant or lessee upon whom ~~such a~~ notice or order ~~shall be~~ has been served, pursuant to 50-62-103,
15 within 20 days from the date of ~~such~~ service, may file with the clerk of the district court and serve upon
16 the department of justice commerce or any officer mentioned in 50-62-101 written objections to ~~said the~~
17 order, in the form of a verified answer denying or controverting ~~the existence of any of the facts therein~~
18 cited in the order ~~which he desires to controvert.~~

19 (2) If an answer ~~be is~~ filed and served, the district court of the county where the property or
20 structure is located shall hear and determine the issues ~~so raised and give judgment thereon.~~"

21
22 **Section 32.** Section 50-62-105, MCA, is amended to read:

23 "**50-62-105. Default judgment.** If ~~no~~ an answer is ~~so~~ not filed and served, the owner and all other
24 persons in interest ~~shall be deemed~~ are considered to be in default, and ~~thereupon~~ the court shall affirm the
25 order of condemnation and direct the department of justice commerce or other officer to proceed with ~~the~~
26 enforcement ~~thereof~~ of the order."

27
28 **Section 33.** Section 50-62-106, MCA, is amended to read:

29 "**50-62-106. Hearing and judgment.** (1) The court, upon application of the department of justice
30 commerce or any officer mentioned in 50-62-101, shall ~~make its order fixing a time and place for such~~

1 ~~schedule a hearing, which time shall to be held~~ within 20 days from the date of the filing of the answer or
 2 as soon ~~thereafter~~ after filing of the answer as the matter may be heard.

3 (2) If ~~upon trial~~ the order is upheld at the hearing ~~shall be sustained~~, judgment ~~shall~~ must be given
 4 accordingly and a time ~~shall be~~ fixed within which the building or structure ~~shall~~ must be altered, destroyed,
 5 or repaired in compliance with ~~such the order,~~ If the order is not upheld, but otherwise the court shall
 6 annul or set aside the order of condemnation."
 7

8 **Section 34.** Section 50-62-107, MCA, is amended to read:

9 **"50-62-107. Proceedings on failure to comply with order.** (1) If the owner or other party in interest
 10 ~~shall fail~~ fails to comply with ~~the an~~ order of condemnation of a building or structure within the time fixed
 11 by the court ~~in case a trial is had therein, then~~ the department of justice commerce or any other officer
 12 authorized in 50-62-101 may ~~proceed to cause such building or structure to be altered, repaired, or~~
 13 ~~demolished in accordance with~~ carry out the directions contained in ~~such the court's~~ order.

14 (2) ~~Where~~ When a building or structure is demolished in accordance with ~~such a court~~ order, the
 15 department or any other officer authorized in 50-62-101 may sell or dispose of ~~the any~~ salvaged materials
 16 ~~therefrom~~ at public auction upon 5 days' posted notice. The department or other officer shall keep an
 17 accurate account of the expenses incurred in carrying out the order and shall credit ~~thereon~~ the proceeds
 18 of ~~such the~~ salvage sale, if any, towards those expenses after submitting a statement of account ~~and shall~~
 19 ~~report thereon with a statement of said expenses or the balance thereof, the expense incurred, and the~~
 20 ~~amount, if any, received from such salvage sale to the court for approval and allowance.~~ The court shall
 21 examine, correct if necessary, and allow ~~said the~~ expense account, ~~and said~~ The allowed amount remaining
 22 unpaid so allowed shall constitute constitutes a lien against the real estate on which ~~said the condemned~~
 23 building or structure is or was situated. If the unpaid amount ~~thereof~~ is not paid by the owner or other party
 24 in interest within 3 months after the account has been examined and approved by the court, the real estate
 25 upon which ~~said the~~ building or structure is or was situated ~~shall~~ must be sold, under proper order of court,
 26 by the sheriff of the county in which ~~the same~~ it is situated in the manner provided by law for the sale of
 27 real estate, ~~upon execution, and the~~ The proceeds of said the sale shall must be paid into the treasury of
 28 the governmental unit which incurred the expenses. If the amount received as salvage or on sale ~~shall~~
 29 ~~exceed~~ exceeds the expense incurred by the governmental unit, the court shall direct the payment of the
 30 surplus to those parties with encumbrances, mortgages, or liens on the real estate in order of their priority

1 and any remaining surplus ~~thereafter~~ to the owner ~~or the payment of the same into court for their use and~~
 2 ~~benefit.~~"

3
 4 **Section 35.** Section 50-62-110, MCA, is amended to read:

5 "**50-62-110. Appeal to department of justice commerce.** ~~If the~~ An owner or occupant ~~deems~~
 6 ~~himself aggrieved by~~ may appeal an order of an officer issued under this chapter, ~~he may appeal~~ to the
 7 department of justice commerce within 24 hours of receipt and the cause of the complaint ~~shall at once~~
 8 must be immediately investigated by ~~direction of~~ the department. Unless ~~such the~~ order is revoked by the
 9 department, it ~~shall remain~~ remains in force and ~~forthwith~~ must be complied with by ~~such the~~ owner or
 10 occupant."

11
 12 **Section 36.** Section 50-74-101, MCA, is amended to read:

13 "**50-74-101. Department Definition -- department to formulate rules.** (1) As used in this chapter,
 14 the term "department" means the department of commerce.

15 (2) The department shall ~~formulate~~ adopt definitions and rules for the safe construction, installation,
 16 operation, inspection, and repair of equipment covered by this chapter. The definitions and rules ~~se~~
 17 ~~formulated shall~~ must follow generally accepted nationwide engineering standards as published by the
 18 American society of mechanical engineers."

19
 20 **Section 37.** Section 52-2-733, MCA, is amended to read:

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

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

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

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

30 (5) Upon request of the department, the department of health and environmental sciences or the

1 state fire prevention and investigation program of the department of ~~justice~~ commerce shall inspect any day
 2 care facility for which a license or registration certificate is applied for or issued and shall report its findings
 3 to the department.

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

6 (7) ~~Nothing in this~~ This section may not be construed to require the department to conduct an
 7 inspection of each day-care facility applying for a registration certificate under the provisions of this part."

8

9 **Section 38.** Section 52-2-734, MCA, is amended to read:

10 "**52-2-734. Fire safety -- certification required.** (1) The state fire prevention and investigation
 11 program of the department of ~~justice~~ commerce shall adopt and enforce rules for the protection of children
 12 in day-care centers from fire hazards and arrange for ~~such~~ inspections and investigations as that it considers
 13 necessary.

14 (2) Before a license can be issued to operate a day-care center, each applicant shall submit to the
 15 department a certificate of approval from the state fire prevention and investigation program of the
 16 department of ~~justice~~ commerce indicating that fire safety rules have been met."

17

18 **Section 39.** Section 52-3-304, MCA, is amended to read:

19 "**52-3-304. Standards for adult foster family care homes.** The department may establish by rules
 20 standards by which private residences may be licensed as adult foster family care homes. These standards
 21 ~~shall~~ must provide for the safety and comfort of the residents and are subject to the advice and
 22 recommendations of the state fire prevention and investigation program of the department of ~~justice~~
 23 commerce in relation to fire and safety requirements."

24

25 **Section 40.** Section 52-4-204, MCA, is amended to read:

26 "**52-4-204. Health and safety standards.** (1) A community home for persons with severe disabilities
 27 must be certified annually for fire and life safety by the department of ~~justice~~ commerce. The department
 28 of ~~justice~~ commerce shall notify the department whenever a community home has been certified or refused
 29 certification.

30 (2) (a) Local health officers shall inspect a community home for persons with severe disabilities to

1 ensure compliance with health and safety standards. If for any reason the local authority cannot complete
 2 the inspection in a timely manner, the department of health and environmental sciences may make the
 3 inspection to ensure compliance with the standards.

4 (b) The inspecting health officer shall notify the department as to whether a community home is
 5 or is not in compliance with applicable standards.

6 (c) A reasonable fee may be charged by health authorities conducting compliance inspections."
 7

8 **Section 41.** Section 52-4-205, MCA, is amended to read:

9 "**52-4-205. Rulemaking.** (1) The department shall, for the purpose of licensing, adopt rules to
 10 govern administration, operation, and health and safety requirements for community homes for persons with
 11 severe disabilities in order to protect rights of residents. The department shall provide for temporary and
 12 provisional licensing.

13 (2) The department of health and environmental sciences and the state fire prevention and
 14 investigation program of the department of ~~justice~~ commerce shall provide advice and recommendations
 15 to the department concerning licensing requirements for health and safety."
 16

17 **Section 42.** Section 53-1-104, MCA, is amended to read:

18 "**53-1-104. Release of arsonist -- notification of ~~department~~ departments of justice and commerce.**

19 (1) Each of the following institutions or facilities having the charge or custody of a person convicted of
 20 arson or of a person acquitted of arson on the ground of mental disease or defect shall give written
 21 notification to the ~~department~~ departments of justice and commerce whenever the person is admitted or
 22 released by it:

23 (a) Montana state hospital;

24 (b) state prison;

25 (c) Mountain View school;

26 (d) Pine Hills school; or

27 (e) any county or city detention facility.

28 (2) The notification must disclose:

29 (a) the name of the person;

30 (b) where the person is or will be located; and

1 (c) the type of fire the person was involved in."
2

3 **Section 43.** Section 53-20-307, MCA, is amended to read:

4 **"53-20-307. Health and safety standards for licensing.** (1) (a) After initial certification by the state
5 fire prevention and investigation program of the department of ~~justice~~ commerce, community homes must
6 be certified annually for fire and life safety by the department of ~~justice~~ commerce.

7 (b) The department of ~~justice~~ commerce shall notify the department of social and rehabilitation
8 services and the department of family services when a community home has been certified.

9 (2) (a) Local health officers shall certify community homes for compliance with health and safety
10 standards. If for any reason the local authority cannot complete the certification in a timely manner, the
11 department of health and environmental sciences is authorized to make the determination on certification.

12 (b) A reasonable fee may be charged to authorized parties as defined in 53-20-303 for the health
13 and safety certification."
14

15 **Section 44.** Section 75-11-302, MCA, is amended to read:

16 **"75-11-302. Definitions.** Except as provided in ~~subsections~~ subsection (2), ~~(14), and (24)~~, the
17 following definitions apply to this part:

18 (1) "Accidental release" means a sudden or nonsudden release, neither expected nor intended by
19 the tank owner or operator, of petroleum or petroleum products from a storage tank that results in a need
20 for corrective action or compensation for third party bodily injury or property damage.

21 (2) "Aviation gasoline" means aviation gasoline as defined in 15-70-201. For the purposes of this
22 chapter, aviation gasoline does not include JP-4 jet fuel sold to a federal defense fuel supply center.

23 (3) "Board" means the petroleum tank release compensation board established in 2-15-2108.

24 (4) "Bodily injury" means physical injury, sickness, or disease sustained by an individual, including
25 death that results from the physical injury, sickness, or disease at any time.

26 (5) "Claim" means a written request prepared and submitted by an owner or operator or an agent
27 of the owner or operator for reimbursement of expenses caused by an accidental release from a petroleum
28 storage tank.

29 (6) "Corrective action" means investigation, monitoring, cleanup, restoration, abatement, removal,
30 and other actions necessary to respond to a release.

1 (7) "Department" means the department of health and environmental sciences provided for in Title
2 2, chapter 15, part 21.

3 (8) "Distributor" means a person who is licensed to sell gasoline, as provided in 15-70-202, and
4 who:

5 (a) in the state of Montana, engages in the business of producing, refining, manufacturing, or
6 compounding gasoline, aviation gasoline, special fuel, or heating oil for sale, use, or distribution;

7 (b) imports gasoline, aviation gasoline, special fuel, or heating oil for sale, use, or distribution in
8 this state;

9 (c) engages in wholesale distribution of gasoline, aviation gasoline, special fuel, or heating oil in
10 this state;

11 (d) is an exporter;

12 (e) is a dealer licensed as of January 1, 1969, except a dealer at an established airport; or

13 (f) either blends gasoline with alcohol or blends heating oil with waste oil.

14 (9) "Double-walled tank system" means a petroleum storage tank and associated product piping
15 that is designed and constructed with rigid inner and outer walls separated by an interstitial space and that
16 is capable of being monitored for leakage. The design and construction of these tank systems must meet
17 standards of the department and the department of ~~justice~~ commerce fire prevention and investigation
18 bureau. The material used in construction must be compatible with the liquid to be stored in the system,
19 and the system must be designed to prevent the release of any stored liquid.

20 (10) "Eligible costs" means expenses that are reimbursable under 75-11-307.

21 (11) "Export" means to transport out of the state of Montana, by means other than in the fuel
22 supply tank of a motor vehicle, gasoline, aviation gasoline, special fuel, or heating oil received from a
23 refinery or pipeline terminal within the state of Montana.

24 (12) "Exporter" means a person who transports, by means other than in the fuel supply tank of a
25 motor vehicle, gasoline, aviation gasoline, special fuel, or heating oil received from a refinery or pipeline
26 terminal within the state of Montana to a destination outside the state of Montana for sale, use, or
27 consumption beyond the boundaries of the state of Montana.

28 (13) "Fee" means the petroleum storage tank cleanup fee provided for in 75-11-314.

29 (14) "Fund" means the petroleum tank release cleanup fund established in 75-11-313.

30 (15) "Gasoline" means gasoline as defined in 15-70-201. For the purposes of this chapter, gasoline

1 does not include JP-4 jet fuel sold to the federal defense fuel supply center.

2 (16) "Heating oil" means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No.
3 5-heavy, and No. 6 technical grades of fuel oil; other residual fuel oils, including navy special fuel oil and
4 bunker C; and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used
5 in the operation of heating equipment, boilers, or furnaces.

6 (17) "Import" means to receive into a person's possession or custody first after its arrival and
7 coming to rest at a destination within the state any gasoline, aviation gasoline, special fuel, or heating oil
8 shipped or transported into this state from a point of origin outside this state, other than in the fuel supply
9 tank of a motor vehicle.

10 (18) "Operator" means a person in control of or having responsibility for the daily operation of a
11 petroleum storage tank.

12 (19) "Owner" means a person who holds title to, controls, or possesses an interest in a petroleum
13 storage tank. The term does not include a person who holds an interest in a tank solely for financial
14 security, unless through foreclosure or other related actions the holder of a security interest has taken
15 possession of the tank.

16 (20) "Person" means an individual, firm, trust, estate, partnership, company, association, joint stock
17 company, syndicate, consortium, commercial entity, corporation, or agency of state or local government.

18 (21) "Petroleum" or "petroleum products" means crude oil or any fraction of crude oil that is liquid
19 at standard conditions of temperature and pressure (60 degrees F and 14.7 pounds per square inch
20 absolute) or motor fuel blend, such as gasohol, and that is not augmented or compounded by more than
21 a de minimis amount of another substance.

22 (22) "Petroleum storage tank" means a tank that contains or contained petroleum or petroleum
23 products and that is:

24 (a) an underground storage tank as defined in 75-10-403;

25 (b) a storage tank that is situated in an underground area such as a basement, cellar, mine, drift,
26 shaft, or tunnel;

27 (c) an above ground storage tank with a capacity less than 30,000 gallons; or

28 (d) above ground or underground pipes associated with tanks under subsections (22)(b) and
29 (22)(c), except that pipelines regulated under the following laws are excluded:

30 (i) the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671, et seq.);

1 (ii) the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2001, et seq.); and
2 (iii) state law comparable to the provisions of law referred to in subsections (22)(d)(i) and (22)(d)(ii),
3 if the facility is intrastate.

4 (23) "Property damage" means:

5 (a) physical injury to tangible property, including loss of use of that property caused by the injury;
6 or

7 (b) loss of use of tangible property that is not physically injured.

8 (24) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing
9 of petroleum or petroleum products from a petroleum storage tank into ground water, surface water,
10 surface soils, or subsurface soils.

11 (25) "Special fuel" means those combustible liquids commonly referred to as diesel fuel or another
12 volatile liquid of less than 46 degrees A.P.I. (American petroleum institute) gravity test, except liquid
13 petroleum gas. For the purposes of this chapter, special fuel does not include diesel fuel sold to a railroad
14 or a federal defense fuel supply center."
15

16 **Section 45.** Section 77-5-104, MCA, is amended to read:

17 **"77-5-104. Firewardens.** (1) The department shall appoint firewardens in the number and localities
18 as it considers necessary.

19 (2) The supervisors and rangers of the federal forest lands within this state, whenever they formally
20 accept the duties and responsibilities of firewardens, may be appointed firewardens.

21 (3) The following are firewardens but may not receive any additional compensation by reason of
22 the duties imposed:

23 (a) sheriffs;

24 (b) undersheriffs;

25 (c) deputy sheriffs;

26 (d) state fish, wildlife, and parks wardens and park rangers;

27 (e) the state fish, wildlife, and parks director;

28 (f) the commissioner and employees of the department designated by the commissioner;

29 (g) officers of organized forest protection districts;

30 (h) members of the Montana highway patrol;

1 (i) officers of the national park service residing in Montana;

2 (j) officers of the bureau of Indian affairs;

3 (k) county rural fire chiefs; ~~and~~

4 (l) employees of the state fire prevention and investigation program provided for in ~~2-15-2005~~

5 [section 1]; and

6 (m) arson investigators of the department of justice.

7 (4) The firewardens shall promptly report all fires to the department, take immediate and active
8 steps toward their extinguishment, report any violation of forest laws, and assist in apprehending and
9 convicting offenders."

10
11 NEW SECTION. Section 46. Repealer. Section 2-15-2005, MCA, is repealed.

12
13 NEW SECTION. Section 47. Codification instruction. [Section 1] is intended to be codified as an
14 integral part of Title 2, chapter 15, part 18, and the provisions of Title 2, chapter 15, part 18, apply to
15 [section 1].

16
17 NEW SECTION. Section 48. Effective date. [This act] is effective July 1, 1995.

18 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0432, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act implementing the recommendation of the Governor's Task Force to Renew State Government by transferring fire prevention and investigation from the Department of Justice (DOJ) to the Department of Commerce (DOC), and transferring boiler safety and inspections from the Department of Labor and Industry (DOLI) to DOC.

ASSUMPTIONS:

1. The Governor's Executive Budget, as submitted, serves as the starting point from which to determine any fiscal impact due to this proposed legislation and which functions and positions are being transferred.
2. All equipment assigned to the existing functions in the DOJ and DOLI will be moved to the DOC.
3. The DOJ has specified that two deputy fire marshals are needed to maintain the arson investigation function in the DOJ. Those FTEs plus appropriate operating costs remain in the DOJ budget.
4. Moving expenses of \$2,500 are provided to DOC for in-Helena and outside-Helena moves, \$1,000 of which is state special revenue boiler inspection fees.
5. A .50 FTE (grade 8) administrative aide is recommended to be added to the DOC budget, funded by state special revenue, to provide administrative support to the boiler inspection function.
6. Funding is provided to DOC from the general fund for fire inspection legal costs. It is projected 400 hours at \$53 an hour (or \$21,200) may be needed each year of the biennium for rule changes and related work.
7. Equipment will cost \$12,500 at DOC in FY96 for a copier and fax machine. Fire inspectors currently occupy offices (outside Helena) with other DOJ programs. For the most part, central office equipment has been paid for by the other functions and the fire inspectors are using the equipment free of charge.
8. No new office space will be needed in Helena to accommodate the switching of FTEs.
9. The DOLI functions are 100% state special revenue and the DOJ functions are 100% general fund.

NET FISCAL IMPACT:

<u>Expenditures:</u>	<u>FY96</u> <u>Difference</u>	<u>FY97</u> <u>Difference</u>
FTE	.50	.50
Personal services	10,100	10,200
Operating expenses	23,700	21,200
Equipment	<u>12,500</u>	<u>0</u>
Total	46,300	31,400

(Continued)

Dave Lewis 2-11-95
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 WILLIAM WISEMAN, PRIMARY SPONSOR DATE

Fiscal Note for HB0432, as introduced

HB 432

Fiscal Note Request, HB0432, as introduced

Page 2

(continued)

Funding:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
General fund (01)	35,200	21,200
State special revenue (02)	<u>11,100</u>	<u>10,200</u>
Total	46,300	31,400

Fiscal impact:

The schedule on the following page depicts the FTEs and costs that would be moved from DOJ and DOLI to the DOC, with the net impact shown as the difference of the three departments. Positive numbers shown above and on the following schedule represent recommended increased expenditures.

Fiscal Note Request, HB0432, as introduced

Page 3

(continued)

	<u>Department of Justice (Fire)</u>		<u>Dept. of Labor (Boiler)</u>		<u>Dept. of Comm. (combined)</u>		<u>Difference</u>	
	<u>FY96</u>	<u>FY97</u>	<u>FY96</u>	<u>FY97</u>	<u>FY96</u>	<u>FY97</u>	<u>FY96</u>	<u>FY97</u>
FTE	(12.50)	(12.50)	(3.00)	(3.00)	16.00	16.00	0.50	0.50
Personal Serv.	(413,350)	(415,063)	(93,801)	(94,309)	517,251	519,572	10,100	10,200
Operating	(143,291)	(144,817)	(56,384)	(56,740)	223,375	222,757	23,700	21,200
Equipment	<u>0</u>	<u>0</u>	<u>(1,500)</u>	<u>(1,500)</u>	<u>14,000</u>	<u>1,500</u>	<u>12,500</u>	<u>0</u>
Total	<u>(556,641)</u>	<u>(559,880)</u>	<u>(151,685)</u>	<u>(152,549)</u>	<u>754,626</u>	<u>743,829</u>	<u>46,300</u>	<u>31,400</u>

FUNDING:

General fund (01)	(486,584)	(489,628)			521,784	510,828	35,200	21,200
State Spec. (02)	(70,057)	(70,252)	(151,685)	(152,549)	222,742	222,801	11,100	10,200
Fed. Spec. (03)							0	0
Proprietary (06)							0	0
Total	<u>(556,641)</u>	<u>(559,880)</u>	<u>(151,685)</u>	<u>(152,549)</u>	<u>744,526</u>	<u>733,629</u>	<u>46,300</u>	<u>31,400</u>

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0432, 3rd reading

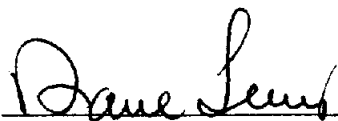
DESCRIPTION OF PROPOSED LEGISLATION:

An act implementing the recommendation of the Governor's Task Force to Renew Montana Government by transferring licensure functions of the fire prevention and investigation program from the Department of Justice (DOJ) to the Department of Commerce (DOC); and transferring boiler safety and inspections from the Department of Labor and Industry (DOLI) to DOC.

ASSUMPTIONS:

1. The Governor's Executive Budget, as submitted, serves as the starting point from which to determine any fiscal impact due to this proposed legislation and which functions and positions are being transferred.
2. All equipment assigned to the existing functions in the DOJ and DOLI will be moved to the DOC.
3. There will be 1.00 FTE (grade 9) transferred from DOJ to the DOC Professional and Occupational Licensing Bureau in connection with the fire equipment and prevention licensure functions. Associated operating expenses of \$3,300 in FY96 and \$2,900 in FY97 will be transferred. Rent expense is not transferred because present space allocations will remain the same for both departments.
4. Moving expenses of \$1,500 are provided to DOC in FY96 for office equipment and furniture relocation.
5. No new office space will be needed in Helena to accommodate the transfer of FTE.
6. A 0.50 FTE (grade 8) administrative aide is recommended to be added to the DOC budget, funded by state special revenue, to provide administrative support to the boiler inspection function. Estimated costs for this position include \$10,106 in FY96 and \$10,137 in FY97 for personal services, \$818 in FY96 and \$821 in FY97 for indirect costs, and \$910 in FY96 for furniture and equipment.
7. All functions involved in the transfers are funded by state special revenue.
8. The Department of Commerce will establish a new accounting entity in the state special revenue fund for the funding that is transferred for licensing of fire alarm systems. Presently, the Department of Justice also uses its current state special revenue accounting entity (A/E 02003) for another program within the department. The Department of Commerce must be the administering agency of the new entity and the Department of Justice will be a sub-agency because one investigator at the Department of Justice will continue to be funded from that entity.
9. Estimated fire protection equipment fees revenue of \$70,057 in FY96 and \$70,252 in FY97 will be transferred from Justice to Commerce.
10. Funding shortfalls relating to the boiler inspection and regulation program will be supported by Worker's Compensation Assessment funds collected and deposited by DOLI.

(continued)

 3-2-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


WILLIAM WISEMAN, PRIMARY SPONSOR DATE

Fiscal Note for HB0432, 3rd reading

HB 432-#2

(continued)

NET FISCAL IMPACT:

Department of Commerce:

	<u>FY96</u>	<u>FY97</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
FTE	0.50	0.50
Personal Services	10,106	10,137
Operating Expenses	2,534	1,037
Equipment	<u>910</u>	<u>0</u>
Total	13,550	11,174
<u>Funding:</u>		
State Special (02)	13,550	11,174

Fiscal Impact:

The schedule on the following page depicts the FTE and expenditures that would be moved from DOJ and DOLI to the DOC, with the net impact shown as the difference of the three departments. Positive numbers shown above and on the following schedule represent increased expenditures.

	Justice (Fire Equip Lic)		Dept of Labor (Boiler)		Commerce (combined)		Difference	
	<u>FY96</u>	<u>FY97</u>	<u>FY96</u>	<u>FY97</u>	<u>FY96</u>	<u>FY97</u>	<u>FY96</u>	<u>FY97</u>
<u>Expenditures:</u>								
FTE	(1.00)	(1.00)	(3.00)	(3.00)	4.50	4.50	0.50	0.50
Personal Services	(21,649)	(21,722)	(93,801)	(94,309)	125,556	126,168	10,106	10,137
Operating Expenses	(3,300)	(2,900)	(56,384)	(56,740)	62,218	60,677	2,534	1,037
Equipment	<u>0</u>	<u>0</u>	<u>(1,500)</u>	<u>(1,500)</u>	<u>2,410</u>	<u>1,500</u>	<u>910</u>	<u>0</u>
Total	(24,949)	(24,622)	(151,685)	(152,549)	190,184	188,345	13,550	11,174
<u>Funding:</u>								
State Special (02)	(24,949)	(24,622)	(151,685)	(152,549)	190,184	188,345	13,550	11,174

APPROVED BY COMMITTEE
ON BUSINESS AND LABOR

HOUSE BILL NO. 432

INTRODUCED BY WISEMAN

A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING THE RECOMMENDATION OF THE GOVERNOR'S TASK FORCE TO RENEW MONTANA GOVERNMENT BY TRANSFERRING LICENSURE FUNCTIONS OF THE FIRE PREVENTION AND INVESTIGATION PROGRAM FROM THE DEPARTMENT OF JUSTICE TO THE DEPARTMENT OF COMMERCE; TRANSFERRING BOILER SAFETY AND INSPECTIONS FROM THE DEPARTMENT OF LABOR AND INDUSTRY TO THE DEPARTMENT OF COMMERCE; AMENDING SECTIONS ~~2-15-1519, 2-15-2108, 2-17-112, 2-18-626, 45-8-332, 50-3-101, 50-3-102, 50-3-103, 50-3-109, 39-71-201, 50-5-115, 50-37-107, 50-39-101, 50-39-102, 50-39-103, 50-39-104, 50-39-106, 50-39-107, 50-61-102, 50-61-106, 50-61-112, 50-61-113, 50-61-114, 50-61-115, 50-61-117, 50-61-118, 50-61-121, 50-62-101, 50-62-102, 50-62-103, 50-62-104, 50-62-105, 50-62-106, 50-62-107, 50-62-110, AND 50-74-101, 52-2-733, 52-2-734, 52-3-304, 52-4-204, 52-4-205, 53-1-104, 53-20-307, 75-11-302, AND 77-5-104, MCA; REPEALING SECTION 2-15-2005, MCA; AND PROVIDING AN EFFECTIVE DATE."~~

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

~~NEW SECTION. Section 1. State fire prevention and investigation program advisory council. (1)~~

~~There is a state fire prevention and investigation program in the department of commerce.~~

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

~~(3) The governor shall create a fire prevention and investigation advisory council in accordance with procedures provided in 2-15-122.~~

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

~~"2-15-1519. Fire services training advisory council. (1) The board of regents shall appoint a fire services training advisory council to work with the director of the fire services training school. The membership of the council shall must include the following:~~

- 1 ~~(a) a fire chief;~~
 2 ~~(b) a volunteer firefighter;~~
 3 ~~(c) a paid firefighter;~~
 4 ~~(d) a fire service instructor;~~
 5 ~~(e) a person involved in fire prevention;~~
 6 ~~(f) a representative of the insurance industry; and~~
 7 ~~(g) a professional educator.~~

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

10 ~~(3) Members appointed shall serve for a 4 year term terms and may be removed for cause. If a~~
 11 ~~vacancy occurs, a member shall must be appointed to fill the unexpired term. A member may be~~
 12 ~~reappointed.~~

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

16
 17 ~~**Section 3.** Section 2-15-2108, MCA, is amended to read:~~

18 ~~"**2-15-2108. Petroleum tank release compensation board.** (1) There is a petroleum tank release~~
 19 ~~compensation board.~~

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

21 ~~(a) the director of the department of health and environmental sciences or his the director's~~
 22 ~~representative;~~

23 ~~(b) a representative of the state fire prevention and investigation program of the department of~~
 24 ~~justice commerce;~~

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

26 ~~(d) a representative of independent petroleum marketers and chain retailers;~~

27 ~~(e) a representative of the general public;~~

28 ~~(f) a representative of service station dealers; and~~

29 ~~(g) a representative of the insurance industry.~~

30 ~~(3) The board shall elect a chairman presiding officer.~~

1 ~~(4) The term of membership is 3 years.~~

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

4
5 ~~Section 4. Section 2-17-112, MCA, is amended to read:~~

6 ~~"2-17-112. Fire protection for state-owned buildings—department of administration—state fire~~
7 ~~prevention and investigation program. (1) The department of administration shall obtain information~~
8 ~~necessary to prepare a budget for each biennium for fire protection services for state-owned buildings that~~
9 ~~present particular firefighting problems as determined by the state fire prevention and investigation program~~
10 ~~of the department of justice commerce. In preparing the budget, the state may consider providing protection~~
11 ~~directly or contracting for protection with a local fire service and making payments to local governments~~
12 ~~for fire services provided to state agencies, all of which are subject to appropriation by the legislature.~~

13 ~~(2) The department of justice commerce shall review provisions for protection of state-owned~~
14 ~~buildings in connection with inspections conducted under 50-3-102."~~

15
16 ~~Section 5. Section 2-18-626, MCA, is amended to read:~~

17 ~~"2-18-626. Department Employees of departments of justice and commerce employees—payment~~
18 ~~of compensation for time spent answering subpoena. A department of justice or department of commerce~~
19 ~~employee must receive all regular duty pay and benefits for time spent answering a subpoena in a civil or~~
20 ~~criminal cause when called to testify in connection with the employee's official duties. The department of~~
21 ~~justice or department of commerce may bill the person or organization requesting issuance of the subpoena~~
22 ~~for reimbursement for the employee's time."~~

23
24 ~~Section 6. Section 45-8-332, MCA, is amended to read:~~

25 ~~"45-8-332. Definitions. (1) "Destructive device", as used in this chapter, includes but is not limited~~
26 ~~to the following weapons:~~

27 ~~(a) a projectile containing an explosive or incendiary material or any other similar chemical~~
28 ~~substance, including but not limited to that which is commonly known as tracer or incendiary ammunition,~~
29 ~~except tracer ammunition manufactured for use in shotguns;~~

30 ~~(b) a bomb, grenade, explosive missile, or similar device or a launching device therefor;~~

1 ~~(c) a weapon of a caliber greater than .60 caliber which that fires fixed ammunition or any~~
 2 ~~ammunition therefor for the weapon, other than a shotgun or shotgun ammunition;~~

3 ~~(d) a rocket, rocket-propelled projectile, or similar device of a diameter greater than 0.60 inch or~~
 4 ~~a launching device therefor and a rocket, rocket-propelled projectile, or similar device containing an~~
 5 ~~explosive or incendiary material or any other similar chemical substance other than the propellant for the~~
 6 ~~device, except devices designed primarily for emergency or distress signaling purposes;~~

7 ~~(e) a breakable container which that contains a flammable liquid with a flashpoint of 150 degrees~~
 8 ~~Fahrenheit or less and which that has a wick or similar device capable of being ignited, other than a device~~
 9 ~~which that is commercially manufactured primarily for the purpose of illumination.~~

10 ~~(2) "Explosive", as used in this chapter, means any explosive defined in rules adopted by the~~
 11 ~~department of justice commerce pursuant to 50-3-102(3)."~~

12
 13 ~~**Section 7.** Section 50-3-101, MCA, is amended to read:~~

14 ~~"50-3-101. **Definitions.** In this chapter, "department" means the department of justice commerce~~
 15 ~~and "fire prevention and investigation program" means the state fire prevention and investigation program~~
 16 ~~of the department of justice commerce provided for in 2-15-2005 [section 1]."~~

17
 18 ~~**Section 8.** Section 50-3-102, MCA, is amended to read:~~

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

21 ~~(a) inspect each unit of the Montana university system and other state buildings, including state~~
 22 ~~institutions, as often as its budget and other inspection duties allow, but no not more frequently than once~~
 23 ~~each year unless requested by the commissioner of higher education for buildings in the university system,~~
 24 ~~by the department of corrections and human services for state institutions, or by the department of~~
 25 ~~administration for all other state buildings. A copy of the inspection report for units of the university system~~
 26 ~~must be given to the commissioner of higher education, a copy of the inspection report for state institutions~~
 27 ~~must be given to the department of corrections and human services, and a copy of the inspection report~~
 28 ~~for all other state buildings must be given to the department of administration. The department of justice~~
 29 ~~shall advise the commissioner of higher education and the directors of the departments of corrections and~~
 30 ~~human services and administration concerning fire prevention, fire protection, and public safety when it~~

1 ~~distributes the reports;~~

2 ~~(b) inspect public, business, or industrial buildings, as provided in chapter 61, and require~~
3 ~~conformance to law and rules promulgated under the provisions of this chapter;~~

4 ~~(c) assist local fire and law enforcement authorities in arson fire investigations and may initiate or~~
5 ~~supervise these investigations when, in its judgment, the initiation or supervision is necessary;~~

6 ~~(d) provide fire prevention and fire protection information to public officials and the general public;~~

7 ~~(e) serve as the state entity primarily responsible for promoting fire safety at the state level;~~

8 ~~(f) encourage coordination of all services and agencies in fire prevention matters to reduce~~
9 ~~duplication and fill voids in services;~~

10 ~~(g) establish rules concerning responsibilities and procedures to be followed when there is a threat~~
11 ~~of explosive material in a building housing state offices; and~~

12 ~~(h) keep a record of all fires occurring in the state, the origin of the fires, and all facts, statistics,~~
13 ~~and circumstances relating to the fires that have been determined by investigations under the provisions~~
14 ~~of chapter 63. Except for statements of witnesses given during an investigation, information that may be~~
15 ~~held in confidence under 50-63-403, and criminal justice information subject to restrictions on dissemination~~
16 ~~in accordance with Title 44, chapter 5, the record must be open at all times to public inspection.~~

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

19 ~~(3) The department shall adopt rules based on nationally recognized standards necessary for~~
20 ~~safeguarding life and property from the hazards associated with the manufacture, transportation, storage,~~
21 ~~sale, and use of explosive materials.~~

22 ~~(4) If necessary to safeguard life and property under rules promulgated pursuant to this section,~~
23 ~~the department may maintain an action to enjoin the use of all or a portion of a building or restrain a~~
24 ~~specific activity until there is compliance with the rules."~~

25

26 **Section 9.** ~~Section 50-3-103, MCA, is amended to read:~~

27 ~~"50-3-103. Rules promulgated by department. (1) Rules promulgated by the department by~~
28 ~~authority of 50-3-102 must be reasonable and calculated to effect the purposes of this chapter. They must~~
29 ~~include but are not limited to:~~

30 ~~(a) requirements for design, construction, installation, operation, storage, handling, maintenance,~~

1 ~~or use of structural requirements for various types of construction;~~

2 ~~(b) building restrictions within congested districts;~~

3 ~~(c) exit facilities from structures;~~

4 ~~(d) fire extinguishers, fire alarm systems, and fire extinguishing systems;~~

5 ~~(e) fire emergency drills;~~

6 ~~(f) flue and chimney construction;~~

7 ~~(g) heating devices;~~

8 ~~(h) electrical wiring and equipment;~~

9 ~~(i) air conditioning, ventilating, and other duct systems;~~

10 ~~(j) refrigeration systems;~~

11 ~~(k) flammable liquids;~~

12 ~~(l) oil and gas wells;~~

13 ~~(m) application of flammable finishes;~~

14 ~~(n) explosives, acetylene, liquefied petroleum gas, and similar products;~~

15 ~~(o) calcium carbide and acetylene generators;~~

16 ~~(p) flammable motion picture film;~~

17 ~~(q) combustible fibers;~~

18 ~~(r) hazardous chemicals or materials;~~

19 ~~(s) rubbish;~~

20 ~~(t) open flame devices;~~

21 ~~(u) parking of vehicles;~~

22 ~~(v) dust explosions;~~

23 ~~(w) lightning protection;~~

24 ~~(x) storage of smokeless powder and small arms primers; and~~

25 ~~(y) other special fire hazards.~~

26 ~~(2) If rules relate to building and equipment standards covered by the state or a municipal building~~

27 ~~code, the rules are effective upon approval of the department of commerce and filing with the secretary~~

28 ~~of state.~~

29 ~~(3)(2) Federal or other nationally recognized standards for fire protection may be adopted in whole~~

30 ~~or in part by reference.~~

1 ~~(4)(3) Rules must be adopted as prescribed in the Montana Administrative Procedure Act.~~

2 ~~(5)(4) A person violating any rule made under the provisions of this part is guilty of a~~
 3 ~~misdemeanor."~~

4
 5 ~~Section 10. Section 50-3-109, MCA, is amended to read:~~

6 ~~"50-3-109. Tax on fire insurance premiums for maintenance of state fire prevention and~~
 7 ~~investigation activities of department of justice commerce. Each insurer authorized to effect insurance on~~
 8 ~~risks enumerated in 19-18-512 doing business in this state shall for maintenance of the state fire prevention~~
 9 ~~and investigation activities of the department pay to the state auditor and commissioner of insurance ex~~
 10 ~~officio during the month of February or March in each year, in addition to the taxes on premiums required~~
 11 ~~by law to be paid by it, a tax of 1% on the fire portion of the direct premiums on such the risks received~~
 12 ~~during the previous calendar year next proceeding after deducting cancellations and return premiums."~~

13
 14 SECTION 1. SECTION 39-71-201, MCA, IS AMENDED TO READ:

15 "39-71-201. Administration fund. (1) A workers' compensation administration fund is established
 16 out of which all costs of administering the Workers' Compensation and Occupational Disease Acts and the
 17 various occupational safety acts the department and the boiler inspections the department of commerce
 18 must administer, with the exception of the subsequent injury fund, as provided for in 39-71-907, and the
 19 uninsured employers' fund, are to be paid upon lawful appropriation. The following money collected by
 20 the department must be deposited in the state treasury to the credit of the workers' compensation
 21 administrative fund and must be used for the administrative expenses of the department and for the
 22 administrative expenses of the department of commerce for the purposes of 50-74-101:

23 (a) all fees and penalties provided in 39-71-205 and 39-71-304;

24 (b) all fees paid for ~~inspection of boilers and~~ issuance of licenses to operating engineers as required
 25 by law;

26 (c) all fees paid from an assessment on each plan No. 1 employer, plan No. 2 insurer, and plan No.
 27 3, the state fund. The assessments must be levied against the preceding calendar year's gross annual
 28 payroll of the plan No. 1 employers and the gross annual direct premiums collected in Montana on the
 29 policies of the plan No. 2 insurers, insuring employers covered under the chapter, during the preceding
 30 calendar year. However, an assessment of the plan No. 1 employer or plan No. 2 insurer may not be less

1 than \$200. If at any time during the fiscal year a plan No. 1 employer is granted permission to self-insure
 2 or a plan No. 2 insurer is authorized to insure employers under this chapter, that plan No. 1 employer or
 3 plan No. 2 insurer is subject to assessment. The assessments must be sufficient to fund the direct costs
 4 identified to the three plans and an equitable portion of the indirect costs based on the ratio of the
 5 preceding fiscal year's indirect costs distributed to the plans, using proper accounting and cost allocation
 6 procedures. Plan No. 3 must be assessed an amount sufficient to fund the direct costs and an equitable
 7 portion of the indirect costs of regulating plan No. 3. Other sources of revenue, including unexpended
 8 funds from the preceding fiscal year, must be used to reduce the costs before levying the assessments.

9 (2) The administration fund must be debited with expenses incurred by the department in the
 10 general administration of the provisions of this chapter, including the salaries of its members, officers, and
 11 employees and the travel expenses of the members, officers, and employees, as provided for in 2-18-501
 12 through 2-18-503, as amended, incurred while on the business of the department either within or without
 13 the state.

14 (3) Disbursements from the administration money must be made after being approved by the
 15 department upon claim therefor."
 16

17 **Section 2.** Section 50-5-115, MCA, is amended to read:

18 **"50-5-115. Receiverships.** (1) If receivership has not already been instituted under medicaid or
 19 medicare, upon notice to the facility, the department may file a complaint in district court for receivership
 20 under any of the following conditions in addition to applicable conditions listed in 27-20-102:

- 21 (a) a facility is operating without a license and residents are in danger of serious physical or mental
 22 harm;
- 23 (b) a facility intending to close has not made arrangements within 30 days before closure for the
 24 orderly transfer of residents;
- 25 (c) a facility is abandoned by an owner; or
- 26 (d) a life threatening situation exists for the residents of the facility.

27 (2) If the department believes or has received notice from the department of ~~commerce~~ JUSTICE
 28 that there is an emergency that presents or might present an immediate and serious threat to the health
 29 or safety of patients or residents of a facility, a receiver may be appointed by the court upon an ex parte
 30 application by the department. If a receiver is appointed upon an ex parte application, notice must be given

1 by the department to the facility within 24 hours of issuance of the receivership order and a hearing must
 2 be offered the facility by the court within 10 days of issuance of the order to determine whether the order
 3 will be continued.

4 (3) The department shall maintain a list of persons qualified to act as receivers.

5 (4) The selection, appointment, and removal of receivers must be consistent with Title 27, chapter
 6 20, parts 2 and 3.

7 (5) Whenever possible, receivers must be paid from the income of the facility; ~~however~~ However,
 8 receivers may be paid from the patient protection account provided for in 50-5-232. The court shall direct
 9 the amount of payments to be made to the receiver, the payments to be made by the receiver, and the
 10 order of payments made to the receiver or to other entities. Payments owed to a facility that are made to
 11 the receiver must be used to discharge any obligation of the entity making the payments owed to the
 12 facility.

13 (6) The powers and duties of the receiver include:

14 (a) the duty to protect the health, welfare, and safety of the residents;

15 (b) the power to hire, discipline, and fire staff;

16 (c) the power to collect debts due to the facility;

17 (d) the power to settle labor disputes;

18 (e) the power to petition the court to set aside unreasonable contracts or leases entered into by
 19 the facility management;

20 (f) the power to make capital investments in the facility with court approval; and

21 (g) all other powers granted receivers by 27-20-302."

22
 23 ~~Section 12. Section 50-37-107, MCA, is amended to read:~~

24 ~~"50-37-107. Supervised public display of fireworks authorized. (1) The state fire prevention and~~
 25 ~~investigation program of the department of justice commerce or the governing body of a city, town, or~~
 26 ~~county may, under reasonable rules adopted by them, grant permits for supervised public displays of~~
 27 ~~fireworks to be held by municipalities, fair associations, amusement parks, and other organizations or~~
 28 ~~groups of individuals.~~

29 ~~(2) Each display shall must:~~

30 ~~(a) be handled by a competent operator, who must be approved by the state fire prevention and~~

1 investigation program or the governing body of the city, town, or county in which the display is to be held;
2 and

3 ~~(b) be located, discharged, or fired as, in the opinion of the state fire prevention and investigation~~
4 ~~program or the chief of the fire department or other officer designated by the governing body of the city,~~
5 ~~town, or county after proper inspection, not to be hazardous to persons or property.~~

6 ~~(3) Application for permits shall must be made in writing at least 15 days prior to the date of the~~
7 ~~display.~~

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

10 ~~(5) No A permit granted under this section is not transferable."~~

11

12 **Section 3.** Section 50-39-101, MCA, is amended to read:

13 **"50-39-101. License and endorsements required.** (1) A person or entity shall obtain a license from
14 the department of ~~justice~~ commerce before engaging in the business of servicing fire extinguishers or before
15 engaging in the business of selling, servicing, or installing fire alarm systems, special agent fire suppression
16 systems, or fire extinguishing systems. Each individual, except an apprentice, employed by the licensee to
17 perform services under the license ~~must~~ shall obtain from the department an endorsement to sell, service,
18 or install:

19 (a) fire alarm systems;

20 (b) special agent fire suppression systems; or

21 (c) fire extinguishing systems.

22 (2) The license and endorsement or endorsements must be prominently displayed at the business
23 premises, and copies must be carried by the person conducting each installation or servicing and must be
24 shown to anyone requesting to see them.

25 (3) It is a misdemeanor to knowingly or purposely service a fire extinguisher or sell, service, or
26 install a fire alarm system, special agent fire suppression system, or fire extinguishing system without the
27 required license and endorsement."

28

29 **Section 4.** Section 50-39-102, MCA, is amended to read:

30 **"50-39-102. Application for license and endorsements.** (1) An application for a license and any

1 endorsements must be made on a form prescribed by the department of ~~justice~~ commerce.

2 (2) The department shall annually issue a license and endorsement to an applicant who:

3 (a) submits satisfactory proof that the applicant is properly equipped and staffed to provide the
4 sales or services to be licensed and endorsed; and

5 (b) submits satisfactory proof that the applicant is insured to engage in the business covered by
6 the license and endorsement or endorsements.

7 (3) The department shall:

8 (a) issue an endorsement to an applicant who scores a passing grade on an examination devised
9 or approved by the department; and

10 (b) annually renew the endorsement upon payment of the endorsement fee and submission of
11 satisfactory proof that the endorsee has completed continuing education, training, or testing required by
12 the department."

13
14 **Section 5.** Section 50-39-103, MCA, is amended to read:

15 "**50-39-103. Inspections, examinations, and hearings authorized.** ~~The~~ WHEN REQUESTED BY THE
16 department of ~~justice commerce may,~~ THE DEPARTMENT OF JUSTICE SHALL conduct inspections, OF THE
17 APPLICANT'S BUSINESS FACILITIES AND SHALL REPORT TO THE DEPARTMENT OF COMMERCE THE
18 RESULTS OF ITS INSPECTION. THE DEPARTMENT OF COMMERCE MAY CONSIDER THE INSPECTION
19 REPORT AND CONDUCT examinations, or hearings to determine an applicant's qualifications."

20
21 **Section 6.** Section 50-39-104, MCA, is amended to read:

22 "**50-39-104. Violations and penalties.** The department of ~~justice commerce~~ may deny, revoke,
23 suspend, or refuse to renew a license or endorsement for falsification of an application or for a violation
24 of this part or a rule promulgated by the department under 50-39-107."

25
26 **Section 7.** Section 50-39-106, MCA, is amended to read:

27 "**50-39-106. Deposit of fees.** The fees collected under 50-39-105 must be deposited in an account
28 in the state special revenue fund to the credit of the department of ~~justice commerce~~ and appropriated to
29 the ~~department~~ DEPARTMENTS OF COMMERCE AND JUSTICE to administer this part."

1 **Section 8.** Section 50-39-107, MCA, is amended to read:

2 "**50-39-107. Rulemaking authority.** The department of justice commerce may adopt rules to
3 implement this part."

4
5 ~~**Section 19.** Section 50-61-102, MCA, is amended to read:~~

6 ~~"**50-61-102. Department of justice commerce to administer chapter.** (1) The department of justice
7 commerce has general charge and supervision of the enforcement of this chapter, and the officers
8 enumerated in 50-61-114 shall act under its general charge and supervision, shall assist the department
9 in giving effect to this chapter, and are subject to its direction and the rules adopted under 50-3-102 and
10 50-3-103 for the enforcement of 50-61-120 and 50-61-121 and this chapter.~~

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

13
14 ~~**Section 20.** Section 50-61-106, MCA, is amended to read:~~

15 ~~"**50-61-106. Unlawful to obstruct fire exit.** It is unlawful to obstruct in any manner any fire exit,
16 or any hallway, corridor, or entranceway leading to a fire exit, required by rules adopted by the department
17 of justice commerce."~~

18
19 ~~**Section 21.** Section 50-61-112, MCA, is amended to read:~~

20 ~~"**50-61-112. Prior approval required for construction or alteration of educational and institutional
21 occupancies.** (1) Within an incorporated municipality, an educational or institutional occupancy, whether
22 public or private, may not be constructed or have alterations made costing \$1,500 or more until sketches
23 or architectural plans for the construction or alteration, whichever are available, are submitted to and
24 approved by the state fire prevention and investigation program of the department of justice commerce.~~

25 ~~(2) Outside an incorporated municipality, an assembly, educational, or institutional occupancy may
26 not be constructed or have alterations made costing \$1,500 or more until a permit has been issued for the
27 construction or alteration by the county commissioners. A fee of \$10 must be paid to the county treasurer
28 for each permit. A copy of the permit must be furnished to the department of revenue. A permit may not
29 be issued until sketches or architectural plans for the construction or alteration, whichever are available,
30 are submitted to and approved by the state fire prevention and investigation program of the department of~~

1 ~~justice commerce. The state fire prevention and investigation program of the department of justice~~
2 ~~commerce and county sheriffs are responsible for enforcing the provisions of this subsection."~~

3
4 ~~**Section 22.** Section 50-61-113, MCA, is amended to read:~~

5 ~~"**50-61-113. Prior approval required for construction of state-owned building designed for human**~~
6 ~~**occupancy.** A building designed for human occupancy owned or controlled by the state may not be~~
7 ~~constructed until plans for the construction have been submitted to and approved by the state fire~~
8 ~~prevention and investigation program of the department of justice commerce."~~

9
10 ~~**Section 23.** Section 50-61-114, MCA, is amended to read:~~

11 ~~"**50-61-114. Fire chief and fire inspector to make inspections.** The chief of the fire department of~~
12 ~~each municipality or district when a fire inspection program is established or a fire inspector of the~~
13 ~~department of justice commerce when no a fire inspection program exists does not exist, for the purpose~~
14 ~~of examining the premises for violations of this chapter and rules adopted under 50-3-103 for the~~
15 ~~enforcement of this chapter:~~

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

17 ~~(2) may enter into all other buildings and upon all other premises within his the chief's or fire~~
18 ~~inspector's jurisdiction, according to priority schedules established by the department for conducting~~
19 ~~inspections of buildings and premises."~~

20
21 ~~**Section 24.** Section 50-61-115, MCA, is amended to read:~~

22 ~~"**50-61-115. Notice of violations.** (1) When a building is found that is not in compliance with fire~~
23 ~~safety rules promulgated by the department of justice commerce, the person making the inspection or the~~
24 ~~department shall serve a written notice upon the party whose duty it is to maintain the safety of the~~
25 ~~building.~~

26 ~~(2) The notice must specify the time within which the defective conditions must be remedied,~~
27 ~~which may not be more than 90 days.~~

28 ~~(3) The notice is served if delivered to the person to be notified, if left with any adult person at the~~
29 ~~usual residence or place of business of the person to be notified, or if deposited in at the post office,~~
30 ~~directed to the last known address of the person to be notified. Whenever buildings are managed and~~

1 ~~controlled by a board of trustees, board of commissioners, or other governing body, the notice is served~~
 2 ~~if delivered to the president, secretary, or treasurer of the board of trustees, board of commissioners, or~~
 3 ~~other governing body."~~

4
 5 ~~**Section 25.** Section 50-61-117, MCA, is amended to read:~~

6 ~~"**50-61-117. Prosecution of violations.** It is the duty of the department of justice commerce or~~
 7 ~~other authorized officer to furnish the county attorney with all evidence of violations of rules adopted by~~
 8 ~~the department within the county where said the violations occur, and, if the evidence discloses the fact~~
 9 ~~that a violation has occurred, it is the duty of the county attorney of the county to prosecute the person~~
 10 ~~committing the violation in the same manner as in other cases."~~

11
 12 ~~**Section 26.** Section 50-61-118, MCA, is amended to read:~~

13 ~~"**50-61-118. Injunction authorized.** In addition to the other remedies and penalties provided in this~~
 14 ~~chapter, upon the failure of any of the parties charged with the duty to maintain the safety of the building~~
 15 ~~premises in accordance with rules adopted by the department of justice commerce, the attorney general~~
 16 ~~of the state or the county attorney of the county where the building is located shall bring an action against~~
 17 ~~the owner, lessee, and occupants of the building for an injunction enjoining the further occupancy of it until~~
 18 ~~it is in compliance with this chapter. The action may be brought in the county where the building is~~
 19 ~~located."~~

20
 21 ~~**Section 27.** Section 50-61-121, MCA, is amended to read:~~

22 ~~"**50-61-121. Restrictions on storage of smokeless powder and small arms primers.** (1) A retail~~
 23 ~~establishment may stock up to 400 pounds of smokeless powder on the premises of a building with a~~
 24 ~~sprinkler system or 200 pounds on the premises of a building without a sprinkler system if storage of this~~
 25 ~~stock conforms to the following conditions:~~

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

27 ~~(b) the storage area is clearly posted as off limits to customers;~~

28 ~~(c) the storage area is clearly posted as prohibiting smoking or any open flame or sparks; and~~

29 ~~(d) the storage area is a room designed and constructed to restrict smoke travel that is separate~~
 30 ~~from the customer service area, that has a self-closing entrance door, and that conforms to one of the~~

1 following:

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

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

9 (iii) ~~Smokeless powder stock is contained in a cabinet with casters and constructed of wood at least~~
10 ~~1-inch thick that is covered on all sides with 5/8-inch sheetrock.~~

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

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

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

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

20

21 ~~Section 28.~~ Section 50-62-101, MCA, is amended to read:

22 ~~"50-62-101. Entering of buildings for purpose of examination authorized.~~ The officers of the state
23 ~~fire prevention and investigation program of the department of justice commerce or the chief of the fire~~
24 ~~department of each municipality or district where a fire department is established at all reasonable hours~~
25 ~~may, as authorized by law, enter into all buildings and upon all premises within his their jurisdiction for the~~
26 ~~purpose of determining whether the building or premise conforms to laws and rules relating to fire hazards~~
27 ~~and fire safety."~~

28

29 ~~Section 29.~~ Section 50-62-102, MCA, is amended to read:

30 ~~"50-62-102. Structures or conditions creating fire hazard a public nuisance order to remedy. (1)~~

1 ~~If any building or other structure that for want of proper repair; by reason of age, dilapidated condition,~~
 2 ~~defective or poorly installed wiring and equipment, defective chimneys, defective gas connections, defective~~
 3 ~~heating apparatus, or the existence of any combustible materials, flammable conditions, or other fire~~
 4 ~~hazards; or for any other cause or reason is especially liable to fire and is dangerous to the safety of the~~
 5 ~~building premises or to the public or is so situated as to endanger other buildings and property in the~~
 6 ~~vicinity, the state fire prevention and investigation program of the department of justice commerce or other~~
 7 ~~officer may declare the building or other structure to be a public nuisance and proceed according to~~
 8 ~~50-62-103 or subsection (2) of this section.~~

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

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

19
 20 ~~**Section 30.** Section 50-62-103, MCA, is amended to read:~~

21 ~~**"50-62-103. Service of order to repair hazardous condition or demolish structure.** (1) If the fire~~
 22 ~~prevention and investigation program of the department of justice commerce or any officer mentioned in~~
 23 ~~50-62-101, upon an examination or inspection, determines that a building or other structure constitutes~~
 24 ~~a public nuisance for any reason identified in 50-62-102 and the condition cannot be removed or remedied~~
 25 ~~within 24 hours, the program or officer shall order the hazardous condition to be repaired or the structure~~
 26 ~~to be torn down or demolished and all dangerous conditions remedied.~~

27 ~~(2) The order shall must be in writing, shall must recite the grounds therefor for the order, and shall~~
 28 ~~must be filed in the office of the clerk of the district court of the county in which the building or structure~~
 29 ~~ordered to be altered, repaired, or demolished is situated, and thereupon all, All further proceedings for the~~
 30 ~~enforcement thereof shall be had in that court must be filed in the district court of the county where the~~

1 ~~building or structure is located.~~

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

9 (4) ~~If the whereabouts of the owner or any purchaser under contract for deed is unknown and~~
 10 ~~cannot be ascertained by the department of justice commerce by the exercise of reasonable diligence, then~~
 11 ~~upon filing in the office of the clerk of the district court an affidavit to this effect, service of the notice upon~~
 12 ~~the owner or any purchaser under contract for deed may be made by the clerk of the district court by~~
 13 ~~publication of it once in each week for 3 successive weeks in a newspaper printed and published in the~~
 14 ~~county in which the building or structure is located and by posting a copy thereof of the notice in a~~
 15 ~~conspicuous place upon the building or structure, and the service so made is complete upon the expiration~~
 16 ~~of the publication period. Proof of service of the notice shall must be filed in the office of the clerk of the~~
 17 ~~district court within 5 days after the service thereof."~~

18
 19 **Section 31.** ~~Section 50-62-104, MCA, is amended to read:~~

20 ~~"50-62-104. Answer of owner or occupant. (1) The owner of any building so condemned or any~~
 21 ~~occupant or lessee upon whom such a notice or order shall be has been served, pursuant to 50-62-103,~~
 22 ~~within 20 days from the date of such service, may file with the clerk of the district court and serve upon~~
 23 ~~the department of justice commerce or any officer mentioned in 50-62-101 written objections to said the~~
 24 ~~order, in the form of a verified answer denying or controverting the existence of any of the facts therein~~
 25 ~~cited in the order which he desires to controvert.~~

26 (2) ~~If an answer be is filed and served, the district court of the county where the property or~~
 27 ~~structure is located shall hear and determine the issues so raised and give judgment thereon."~~

28
 29 **Section 32.** ~~Section 50-62-105, MCA, is amended to read:~~

30 ~~"50-62-105. Default judgment. If no an answer is so not filed and served, the owner and all other~~

1 persons in interest shall be deemed ~~are considered~~ to be in default, and thereupon the court shall affirm the
 2 order of condemnation and direct the department of justice ~~commerce~~ or other officer to proceed with the
 3 enforcement thereof ~~of the order.~~"

4
 5 **Section 33.** Section 50-62-106, MCA, is amended to read:

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

10 (2) If upon trial the order ~~is upheld at the hearing~~ shall be sustained, judgment shall ~~must~~ be given
 11 accordingly and a time shall be fixed within which the building or structure shall ~~must~~ be altered, destroyed,
 12 or repaired in compliance with such ~~the order,~~ ~~if the order is not upheld,~~ but otherwise the court shall
 13 annul or set aside the order of condemnation."

14
 15 **Section 34.** Section 50-62-107, MCA, is amended to read:

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

21 (2) ~~Where~~ ~~When~~ a building or structure is demolished in accordance with such ~~a court~~ order, the
 22 department or any other officer authorized in 50-62-101 may sell or dispose of the ~~any~~ salvaged materials
 23 therefrom at public auction upon 5 days' posted notice. The department or other officer shall keep an
 24 accurate account of the expenses incurred in carrying out the order and shall credit thereon the proceeds
 25 of such ~~the~~ salvage sale, if any, ~~towards those expenses after submitting a statement of account~~ and shall
 26 report thereon with a statement of said expenses or the balance thereof, the expense incurred, and the
 27 amount, if any, received from such salvage sale to the court for approval and allowance. The court shall
 28 examine, correct if necessary, and allow said ~~the~~ expense account, ~~and said~~ ~~The~~ ~~allowed~~ amount remaining
 29 ~~unpaid~~ ~~so allowed~~ shall constitute ~~constitutes~~ a lien against the real estate on which said ~~the~~ condemned
 30 building or structure is or was situated. If the ~~unpaid~~ amount thereof is not paid by the owner or other party

1 in interest within 3 months after the account has been examined and approved by the court, the real estate
 2 upon which said ~~the~~ building or structure is or was situated shall must be sold, under proper order of court,
 3 by the sheriff of the county in which the same ~~it~~ is situated in the manner provided by law for the sale of
 4 real estate, upon execution, and the ~~The~~ proceeds of said ~~the~~ sale shall must be paid into the treasury of
 5 the governmental unit which incurred the expenses. If the amount received as salvage or on sale shall
 6 exceed ~~exceeds~~ the expense incurred by the governmental unit, the court shall direct the payment of the
 7 surplus to those parties with encumbrances, mortgages, or liens on the real estate in order of their priority
 8 and any remaining surplus thereafter to the owner or the payment of the same into court for their use and
 9 benefit."

10
 11 ~~Section 35.~~ Section ~~50-62-110~~, MCA, is amended to read:

12 ~~"50-62-110. Appeal to department of justice commerce.~~ If the ~~An~~ owner or occupant deems
 13 himself aggrieved by ~~may appeal~~ an order of an officer ~~issued~~ under this chapter, he may appeal to the
 14 department of justice commerce within 24 hours of receipt and the cause of the complaint shall at once
 15 must be immediately investigated by direction of the department. Unless such ~~the~~ order is revoked by the
 16 department, it shall remain remains in force and forthwith must be complied with by such ~~the~~ owner or
 17 occupant."

18
 19 ~~Section 9.~~ Section 50-74-101, MCA, is amended to read:

20 ~~"50-74-101. Department Definition -- department to formulate rules.~~ (1) As used in this chapter,
 21 the term "department" means the department of commerce.

22 (2) The department shall ~~formulate~~ adopt definitions and rules for the safe construction, installation,
 23 operation, inspection, and repair of equipment covered by this chapter. The definitions and rules ~~so~~
 24 ~~formulated~~ shall must follow generally accepted nationwide engineering standards as published by the
 25 American society of mechanical engineers."

26
 27 ~~Section 37.~~ Section ~~52-2-733~~, MCA, is amended to read:

28 ~~"52-2-733. Periodic visits to facilities by department — investigations — consultation with licensees~~
 29 ~~and registrants.~~ (1) The department or its authorized representative shall make periodic visits to all licensed
 30 day care centers to ensure that minimum standards are maintained.

1 ~~(2) The department may investigate and inspect the conditions and qualifications of any day care~~
 2 ~~center, group day care home, or family day care home seeking or holding a license or registration certificate~~
 3 ~~under the provisions of this part.~~

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

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

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

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

13 ~~(7) Nothing in this This section may not be construed to require the department to conduct an~~
 14 ~~inspection of each day care facility applying for a registration certificate under the provisions of this part."~~

15
 16 ~~**Section 38.** Section 52-2-734, MCA, is amended to read:~~

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

21 ~~(2) Before a license can be issued to operate a day care center, each applicant shall submit to the~~
 22 ~~department a certificate of approval from the state fire prevention and investigation program of the~~
 23 ~~department of justice commerce indicating that fire safety rules have been met."~~

24
 25 ~~**Section 39.** Section 52-3-304, MCA, is amended to read:~~

26 ~~"**52-3-304. Standards for adult foster family care homes.** The department may establish by rules~~
 27 ~~standards by which private residences may be licensed as adult foster family care homes. These standards~~
 28 ~~shall must provide for the safety and comfort of the residents and are subject to the advice and~~
 29 ~~recommendations of the state fire prevention and investigation program of the department of justice~~
 30 ~~commerce in relation to fire and safety requirements."~~

1 ~~Section 40. Section 52-4-204, MCA, is amended to read:~~

2 ~~"52-4-204. Health and safety standards. (1) A community home for persons with severe disabilities~~
 3 ~~must be certified annually for fire and life safety by the department of justice commerce. The department~~
 4 ~~of justice commerce shall notify the department whenever a community home has been certified or refused~~
 5 ~~certification.~~

6 ~~(2) (a) Local health officers shall inspect a community home for persons with severe disabilities to~~
 7 ~~ensure compliance with health and safety standards. If for any reason the local authority cannot complete~~
 8 ~~the inspection in a timely manner, the department of health and environmental sciences may make the~~
 9 ~~inspection to ensure compliance with the standards.~~

10 ~~(b) The inspecting health officer shall notify the department as to whether a community home is~~
 11 ~~or is not in compliance with applicable standards.~~

12 ~~(c) A reasonable fee may be charged by health authorities conducting compliance inspections."~~

13

14 ~~Section 41. Section 52-4-205, MCA, is amended to read:~~

15 ~~"52-4-205. Rulemaking. (1) The department shall, for the purpose of licensing, adopt rules to~~
 16 ~~govern administration, operation, and health and safety requirements for community homes for persons with~~
 17 ~~severe disabilities in order to protect rights of residents. The department shall provide for temporary and~~
 18 ~~provisional licensing.~~

19 ~~(2) The department of health and environmental sciences and the state fire prevention and~~
 20 ~~investigation program of the department of justice commerce shall provide advice and recommendations~~
 21 ~~to the department concerning licensing requirements for health and safety."~~

22

23 ~~Section 42. Section 53-1-104, MCA, is amended to read:~~

24 ~~"53-1-104. Release of arsonist — notification of department departments of justice and commerce.~~

25 ~~(1) Each of the following institutions or facilities having the charge or custody of a person convicted of~~
 26 ~~arson or of a person acquitted of arson on the ground of mental disease or defect shall give written~~
 27 ~~notification to the department departments of justice and commerce whenever the person is admitted or~~
 28 ~~released by it:~~

29 ~~(a) Montana state hospital;~~

30 ~~(b) state prison;~~

- 1 ~~(c) Mountain View school;~~
 2 ~~(d) Pine Hills school; or~~
 3 ~~(e) any county or city detention facility.~~
 4 ~~(2) The notification must disclose:~~
 5 ~~(a) the name of the person;~~
 6 ~~(b) where the person is or will be located; and~~
 7 ~~(c) the type of fire the person was involved in."~~

8
 9 **Section 43.** ~~Section 53-20-307, MCA, is amended to read:~~

10 ~~"53-20-307. Health and safety standards for licensing. (1) (a) After initial certification by the state~~
 11 ~~fire prevention and investigation program of the department of justice commerce, community homes must~~
 12 ~~be certified annually for fire and life safety by the department of justice commerce.~~

13 ~~(b) The department of justice commerce shall notify the department of social and rehabilitation~~
 14 ~~services and the department of family services when a community home has been certified.~~

15 ~~(2) (a) Local health officers shall certify community homes for compliance with health and safety~~
 16 ~~standards. If for any reason the local authority cannot complete the certification in a timely manner, the~~
 17 ~~department of health and environmental sciences is authorized to make the determination on certification.~~

18 ~~(b) A reasonable fee may be charged to authorized parties as defined in 53-20-303 for the health~~
 19 ~~and safety certification."~~

20
 21 **Section 44.** ~~Section 75-11-302, MCA, is amended to read:~~

22 ~~"75-11-302. Definitions. Except as provided in subsections subsection (2), (14), and (24), the~~
 23 ~~following definitions apply to this part:~~

24 ~~(1) "Accidental release" means a sudden or nonsudden release, neither expected nor intended by~~
 25 ~~the tank owner or operator, of petroleum or petroleum products from a storage tank that results in a need~~
 26 ~~for corrective action or compensation for third party bodily injury or property damage.~~

27 ~~(2) "Aviation gasoline" means aviation gasoline as defined in 15-70-201. For the purposes of this~~
 28 ~~chapter, aviation gasoline does not include JP-4 jet fuel sold to a federal defense fuel supply center.~~

29 ~~(3) "Board" means the petroleum tank release compensation board established in 2-15-2108.~~

30 ~~(4) "Bodily injury" means physical injury, sickness, or disease sustained by an individual, including~~

1 ~~death that results from the physical injury, sickness, or disease at any time.~~

2 ~~(5) "Claim" means a written request prepared and submitted by an owner or operator or an agent~~
3 ~~of the owner or operator for reimbursement of expenses caused by an accidental release from a petroleum~~
4 ~~storage tank.~~

5 ~~(6) "Corrective action" means investigation, monitoring, cleanup, restoration, abatement, removal,~~
6 ~~and other actions necessary to respond to a release.~~

7 ~~(7) "Department" means the department of health and environmental sciences provided for in Title~~
8 ~~2, chapter 15, part 21.~~

9 ~~(8) "Distributor" means a person who is licensed to sell gasoline, as provided in 15-70-202, and~~
10 ~~who:~~

11 ~~(a) in the state of Montana, engages in the business of producing, refining, manufacturing, or~~
12 ~~compounding gasoline, aviation gasoline, special fuel, or heating oil for sale, use, or distribution;~~

13 ~~(b) imports gasoline, aviation gasoline, special fuel, or heating oil for sale, use, or distribution in~~
14 ~~this state;~~

15 ~~(c) engages in wholesale distribution of gasoline, aviation gasoline, special fuel, or heating oil in~~
16 ~~this state;~~

17 ~~(d) is an exporter;~~

18 ~~(e) is a dealer licensed as of January 1, 1969, except a dealer at an established airport; or~~

19 ~~(f) either blends gasoline with alcohol or blends heating oil with waste oil.~~

20 ~~(9) "Double walled tank system" means a petroleum storage tank and associated product piping~~
21 ~~that is designed and constructed with rigid inner and outer walls separated by an interstitial space and that~~
22 ~~is capable of being monitored for leakage. The design and construction of these tank systems must meet~~
23 ~~standards of the department and the department of justice commerce fire prevention and investigation~~
24 ~~bureau. The material used in construction must be compatible with the liquid to be stored in the system,~~
25 ~~and the system must be designed to prevent the release of any stored liquid.~~

26 ~~(10) "Eligible costs" means expenses that are reimbursable under 75-11-307.~~

27 ~~(11) "Export" means to transport out of the state of Montana, by means other than in the fuel~~
28 ~~supply tank of a motor vehicle, gasoline, aviation gasoline, special fuel, or heating oil received from a~~
29 ~~refinery or pipeline terminal within the state of Montana.~~

30 ~~(12) "Exporter" means a person who transports, by means other than in the fuel supply tank of a~~

1 ~~motor vehicle, gasoline, aviation gasoline, special fuel, or heating oil received from a refinery or pipeline~~
2 ~~terminal within the state of Montana to a destination outside the state of Montana for sale, use, or~~
3 ~~consumption beyond the boundaries of the state of Montana.~~

4 ~~(13) "Fee" means the petroleum storage tank cleanup fee provided for in 75-11-314.~~

5 ~~(14) "Fund" means the petroleum tank release cleanup fund established in 75-11-313.~~

6 ~~(15) "Gasoline" means gasoline as defined in 15-70-201. For the purposes of this chapter, gasoline~~
7 ~~does not include JP 4 jet fuel sold to the federal defense fuel supply center.~~

8 ~~(16) "Heating oil" means petroleum that is No. 1, No. 2, No. 4 light, No. 4 heavy, No. 5 light, No.~~
9 ~~5 heavy, and No. 6 technical grades of fuel oil; other residual fuel oils, including navy special fuel oil and~~
10 ~~bunker C; and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used~~
11 ~~in the operation of heating equipment, boilers, or furnaces.~~

12 ~~(17) "Import" means to receive into a person's possession or custody first after its arrival and~~
13 ~~coming to rest at a destination within the state any gasoline, aviation gasoline, special fuel, or heating oil~~
14 ~~shipped or transported into this state from a point of origin outside this state, other than in the fuel supply~~
15 ~~tank of a motor vehicle.~~

16 ~~(18) "Operator" means a person in control of or having responsibility for the daily operation of a~~
17 ~~petroleum storage tank.~~

18 ~~(19) "Owner" means a person who holds title to, controls, or possesses an interest in a petroleum~~
19 ~~storage tank. The term does not include a person who holds an interest in a tank solely for financial~~
20 ~~security, unless through foreclosure or other related actions the holder of a security interest has taken~~
21 ~~possession of the tank.~~

22 ~~(20) "Person" means an individual, firm, trust, estate, partnership, company, association, joint stock~~
23 ~~company, syndicate, consortium, commercial entity, corporation, or agency of state or local government.~~

24 ~~(21) "Petroleum" or "petroleum products" means crude oil or any fraction of crude oil that is liquid~~
25 ~~at standard conditions of temperature and pressure (60 degrees F and 14.7 pounds per square inch~~
26 ~~absolute) or motor fuel blend, such as gasohol, and that is not augmented or compounded by more than~~
27 ~~a de minimis amount of another substance.~~

28 ~~(22) "Petroleum storage tank" means a tank that contains or contained petroleum or petroleum~~
29 ~~products and that is:~~

30 ~~(a) an underground storage tank as defined in 75-10-403;~~

1 ~~(b) a storage tank that is situated in an underground area such as a basement, cellar, mine, drift,~~
2 ~~shaft, or tunnel;~~

3 ~~(c) an above ground storage tank with a capacity less than 30,000 gallons; or~~

4 ~~(d) above ground or underground pipes associated with tanks under subsections (22)(b) and~~
5 ~~(22)(c), except that pipelines regulated under the following laws are excluded:~~

6 ~~(i) the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671, et seq.);~~

7 ~~(ii) the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2001, et seq.); and~~

8 ~~(iii) state law comparable to the provisions of law referred to in subsections (22)(d)(i) and (22)(d)(ii),~~
9 ~~if the facility is intrastate.~~

10 ~~(23) "Property damage" means:~~

11 ~~(a) physical injury to tangible property, including loss of use of that property caused by the injury;~~

12 ~~or~~

13 ~~(b) loss of use of tangible property that is not physically injured.~~

14 ~~(24) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing~~
15 ~~of petroleum or petroleum products from a petroleum storage tank into ground water, surface water,~~
16 ~~surface soils, or subsurface soils.~~

17 ~~(25) "Special fuel" means those combustible liquids commonly referred to as diesel fuel or another~~
18 ~~volatile liquid of less than 46 degrees A.P.I. (American petroleum institute) gravity test, except liquid~~
19 ~~petroleum gas. For the purposes of this chapter, special fuel does not include diesel fuel sold to a railroad~~
20 ~~or a federal defense fuel supply center."~~

21
22 ~~Section 45. Section 77-5-104, MCA, is amended to read:~~

23 ~~"77-5-104. Firewardens. (1) The department shall appoint firewardens in the number and localities~~
24 ~~as it considers necessary.~~

25 ~~(2) The supervisors and rangers of the federal forest lands within this state, whenever they formally~~
26 ~~accept the duties and responsibilities of firewardens, may be appointed firewardens.~~

27 ~~(3) The following are firewardens but may not receive any additional compensation by reason of~~
28 ~~the duties imposed:~~

29 ~~(a) sheriffs;~~

30 ~~(b) undersheriffs;~~

- 1 ~~(c) deputy sheriffs;~~
 2 ~~(d) state fish, wildlife, and parks wardens and park rangers;~~
 3 ~~(e) the state fish, wildlife, and parks director;~~
 4 ~~(f) the commissioner and employees of the department designated by the commissioner;~~
 5 ~~(g) officers of organized forest protection districts;~~
 6 ~~(h) members of the Montana highway patrol;~~
 7 ~~(i) officers of the national park service residing in Montana;~~
 8 ~~(j) officers of the bureau of Indian affairs;~~
 9 ~~(k) county rural fire chiefs; and~~
 10 ~~(l) employees of the state fire prevention and investigation program provided for in 2-15-2005~~
 11 ~~[section 1]; and~~

12 ~~(m) arson investigators of the department of justice.~~

13 ~~(4) The firewardens shall promptly report all fires to the department, take immediate and active~~
 14 ~~steps toward their extinguishment, report any violation of forest laws, and assist in apprehending and~~
 15 ~~convicting offenders."~~

16

17 ~~NEW SECTION. Section 46. Repealer. Section 2-15-2005, MCA, is repealed.~~

18

19 ~~NEW SECTION. Section 47. Codification instruction. [Section 1] is intended to be codified as an~~
 20 ~~integral part of Title 2, chapter 15, part 18, and the provisions of Title 2, chapter 15, part 18, apply to~~
 21 ~~[section 1].~~

22

23 ~~NEW SECTION. Section 10. Effective date. [This act] is effective July 1, 1995.~~

24

-END-

1 HOUSE BILL NO. 432

2 INTRODUCED BY WISEMAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING THE RECOMMENDATION OF THE GOVERNOR'S
5 TASK FORCE TO RENEW MONTANA GOVERNMENT BY TRANSFERRING LICENSURE FUNCTIONS OF THE
6 FIRE PREVENTION AND INVESTIGATION PROGRAM FROM THE DEPARTMENT OF JUSTICE TO THE
7 DEPARTMENT OF COMMERCE; TRANSFERRING BOILER SAFETY AND INSPECTIONS FROM THE
8 DEPARTMENT OF LABOR AND INDUSTRY TO THE DEPARTMENT OF COMMERCE; AMENDING SECTIONS
9 ~~2-15-1519, 2-15-2108, 2-17-112, 2-18-626, 45-8-332, 50-3-101, 50-3-102, 50-3-103, 50-3-109,~~
10 ~~39-71-201, 50-5-115, 50-37-107, 50-39-101, 50-39-102, 50-39-103, 50-39-104, 50-39-106, 50-39-107,~~
11 ~~50-61-102, 50-61-106, 50-61-112, 50-61-113, 50-61-114, 50-61-115, 50-61-117, 50-61-118,~~
12 ~~50-61-121, 50-62-101, 50-62-102, 50-62-103, 50-62-104, 50-62-105, 50-62-106, 50-62-107,~~
13 ~~50-62-110, AND 50-74-101, 52-2-733, 52-2-734, 52-3-304, 52-4-204, 52-4-205, 53-1-104, 53-20-307,~~
14 ~~75-11-302, AND 77-5-104, MCA; REPEALING SECTION 2-15-2005, MCA; AND PROVIDING AN~~
15 EFFECTIVE DATE."

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

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