

DIVISION OF CRIMINAL INVESTIGATION

DEPARTMENT OF JUSTICE
STATE OF MONTANA

EXHIBIT 4

DATE Jan. 28, 2005

HB _____

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January 13, 2005

Montana State Legislature
Corrections and Public Safety Appropriations Sub-committee
State Capitol
Helena, Montana 59620

Dear Committee Members:

Last legislative session the Department of Justice was asked to present to the 59th Legislature options for the funding and operation of the Fire Prevention and Investigation Bureau.

Problem Overview

The State Fire Marshal's Office was established in the early 1900's to assist and support Montana fire departments with fire investigations, fire inspections and training in both fields. There are roughly 20 paid fire departments in Montana. This leaves approximately 400 volunteer fire departments that rely on the State Fire Marshal's Office for assistance and expertise with investigations, inspections and fire code interpretation, public education and advanced training.

The State Fire Marshal's Office is statutorily responsible for conducting life safety inspections of public and private occupancies. The inspection responsibilities are outlined in MCA 50-61-103. In short, the responsibilities are enormous! For example, the office is responsible for 16 different types of occupancies throughout the state. Due to resources, our inspection priorities are schools, day care centers, developmentally disabled homes, and drinking and dining establishments. Inspections are not getting done in our hotels, motels, and other lodging accommodations, state facilities, universities and colleges, prisons, jails and other detention centers. These alone amount to over 1900 facilities that are not being inspected.

The size of the state, coupled with the many inspection and investigation responsibilities, have spread an already thin staff even thinner. On average, each deputy state fire marshal is responsible for covering an area encompassing 12 to 13 counties.

Funding and Staffing History

In 1911 a fire marshal tax was enacted to fund the State Fire Marshal's Office. This tax was a quarter of 1%, of just the fire portion, of each insurance policy issued in the state. Over the years this amount grew to 2.5%. In 1985, the revenue from the fire marshal tax was de-earmarked and placed in the general fund. Since that time the State Fire Marshal's budget has been general funded. In fiscal year 2003, the fire marshal tax generated \$3 million to the general fund.

Over the last three years the State Fire Marshal's Office budget has been reduced from over \$700,000 of general fund to roughly \$490,000. Budget reductions were due to 2003 special and regular session cuts and vacancy savings. The number of employees has dropped from 13.5 FTE to 8 FTE.

RECOMMENDATION:

Given the history of funding for the State Fire Marshal's Office, it's difficult to recommend alternative funding sources. Identifying a new source of funding without repealing the original source that was de-earmarked seems unfair to taxpayers. It may be possible to identify other options, but the original source of funding is still the most logical and appropriate.

As an option, we recommend that at least a portion of the 2.5% premium tax on all fire insurance policies sold in the state again be designated for the State Fire Marshal's Office. If even 30% of the tax collected was designated for the Office, it would generate almost \$1.0 million to fund the program at an adequate level.

Respectfully submitted,



Mike Batista, Administrator
Montana Division of Criminal Investigation

INSPECTION PRIORITIES

- 1) SCHOOLS
- 2) DEVELOPMENTALLY DISABLED HOMES
- 3) SEVERELY PHYSICALLY DISABLED HOMES
- 4) DAYCARE CENTERS -OVER 13 CHILDREN
- 5) HOTELS/MOTELS/BED & BREAKFASTS/GUEST RANCHES
- 6) ARM REQUIREMENTS
 - a. ADULT DAYCARE
 - b. CHEMICAL DEPENDENCY
 - c. LIQUOR INSPECTIONS
- 7) STATE BUILDINGS - PRE-RELEASE CENTERS, INSTITUTIONS (Deer lodge, Warm Springs etc.)
- 8) University system
- 9) INSTITUTIONAL - JAILS, YOUTH DETENTION CENTERS
- 10) YOUTH GROUP HOMES
- 11) ADULT FOSTER CARE
- 12) PUBLIC ASSEMBLY BUILDINGS
- 13) ABOVE GROUND STORAGE TANK FACILITIES
- 14) INDUSTRIAL
- 15) BUSINESSES

OVERVIEW – STATE FIRE MARSHAL’S OFFICE

HISTORICAL – starting in the early 1900’s the Fire Marshal office has supported and provided assistance to all fire departments in the state. This support was in the form of assisting departments with fire investigations, fire inspections, and training in both fields.

The fire marshal’s office initially was created under the state auditor’s office. At some point in time it was decided that fire marshals should have peace officer status to help them do a complete fire investigation. During this time, the office was moved into the Department of Justice, where it remains today. For many years’ investigations was a major part of the job. As code enforcement became more prevalent, the number of fires started dropping and the inspection side grew. In the late 1980’s, the fire marshal lost its peace officer status.

Over the years as the population of cities and towns grew, the larger cities formed their own paid fire departments and have one or more persons specializing in the investigation and inspection fields. There are roughly 20 paid full time fire departments in Montana. This leaves over 400 volunteer departments that rely heavily on the State Fire Marshal’s office for guidance and hands on assistance.

FUNDING HISTORY – In 1911 a “fire marshal tax” was put in place to fund the State Fire Marshal duties and responsibilities. This tax was a quarter of one percent, of just the fire portion, of each insurance policy issued in the state. Over the years this amount grew to one percent. As the state grew the amount of dollars also increased. This allowed the fire marshal to expand their training programs to include public fire education, tracking of fires and causes, develop and adopt the latest fire codes, and train all deputy fire marshals in the latest investigation and inspection techniques. This also allowed spending for newer equipment and the additional employees.

In 1985, this tax was transferred into the general fund and the fire marshal was given a general fund budget by the legislature. In 1997 the fire marshal wording was completely removed from the law pertaining to this tax.

BUDGET - over the last three years the number of fulltime employees has dropped from 13.5 FTE’s to our current 7 FTE’s

The Fire Marshals Budget was set as follows during the past six years:

2000 = \$722,217

2001 = \$720,546

2002 = \$702,200

2003 = \$706,114 - special session cut \$200,000 – lost 4 people

2004 = \$448,056 - lost 1 person and 1 person quit

2005 = \$449,324

With the state growing and less people working, the office finds itself stretched to the limits in trying to do all required inspections and investigations. The training to fire departments has nearly stopped and the public education is no longer available to the public like it was in the past.

PERSONNEL - currently we have deputies in the following places:

Miles City = 15 counties
Billings = 13 counties
Great Falls = 10 counties
Missoula = 10 counties
Kalispell = 8 counties
Helena = 1 person

The State Fire Marshal oversees the deputies in the field and their activity. He is responsible for interpreting the fire codes and administrative rules of Montana, relating to the fire prevention office, to be enforced equally across the state. He is on a number of advisory boards and attends state fire conferences throughout the year to keep the fire service up to date with the office activities and current trends. In addition, he attends national conferences and helps in the development of new codes, learning of new programs available, and works with fire marshals nationwide.

The 5 deputies are responsible for more territory than ever before. This means more miles driven and less time working, more wear and tear on equipment and less time for the personal touch that each citizen deserves during the implementation each deputy's duties.

The fire and life safety codes are increasing each year due to tragedies that have occurred in our country. Thus, the knowledge each deputy is required to keep up with increases the time spent in reference materials. In addition, the office is required to review plans for fire sprinkler systems, fire alarm systems and kitchen hood extinguishing installations, and witness the testing, upon completion of these projects.

In addition to his regular duties, one deputy has the task of keeping track of the fire reporting system (NFIRS) statewide. Fire departments report all of their calls electronically and this person runs reports for the fire marshal that gives information on where, what kind and causes of fires that are occurring in our state. This gives the office a direction in which way to combat fire. Fire departments that report are eligible for federal grants to buy new fire trucks and related equipment. In 2002 over 3.7 million dollars was given to Montana, 2003 brought in 4.9 million, and in 2004, 67 grants totaled nearly 4.7 million dollars to Montana fire departments.

The office averages 800-900 inspections and 56 investigations per year. An inspection can take anywhere from 15 minutes to hours, depending on the size of the facility. Investigations take anywhere from several days to weeks to complete all the follow-up activities associated with the case.

The Fire Prevention and Investigation Section are responsible for 16 different types of occupancies throughout the state. Inspection priorities are schools, daycare centers, and developmentally disabled homes, drinking and dining establishments. Inspections not getting done are hotels, motels, and other lodging accommodations, state facilities, universities and colleges, prisons, jails and detention centers. These amount to over 1900 facilities not being inspected throughout our state.

The Section provides fire investigative assistance to local law enforcement and fire departments each year. During the past 5 years the section has averaged 56 investigations each year. Fire Investigations to determine origin and cause can take anywhere from several days to several weeks to complete all the follow-up activities associated with the case.

Montana has over 900,000 people and 147,000 square miles. The Fire Prevention and Investigation Section works hard to try and keep up with growth. Our current staff of professionals is fully trained and able to meet many of the demands that are placed on them. There is a growing trend of more structures in our state to protect through our inspection and investigation responsibilities so maintaining our existing staff is very crucial in order for the section to be effective and efficient. We need to look at implementing public and private education programs to ensure we are a leader in the education and prevention. The focus of the office is to make all Montanans and guests, feel comfortable and safe in the places they stay, eat, drink and shop.

August 12, 2004

TO: John Strandell, Bureau Chief

FROM: Allen Lorenz, Acting State Fire Marshal

RE: FIRE INSPECTIONS NOT GETTING COMPLETED

The following statistics were compiled in part by each Deputy State Fire Marshal and myself. The information was provided by the DPHHS, Montana PETRO Board, DEQ, local sanitarians and our own records.

Not included on the chart are all State buildings in individual counties, such as; employment offices, driver exam offices, welfare, assessors, DOT, and DNRC buildings. Most counties have at least one or more of these facilities.

There are 187 known fuel bulk plants comprising in excess of 1500 above ground storage tanks (AST's). Heating oil tanks and farm tanks consist of over 20,000 tanks. We are responsible for regulating the installation and maintenance of AST's.

The number of bars and restaurants with fire extinguishing systems is in the thousands. We are charged with inspecting fire suppression systems in accordance with an MOU with Department of Labor Licensing Bureau.

The following table lists most of the known facilities there are numbers for, that we are **NOT** getting inspected:

OCCUPANCY	HELENA	BILLINGS	MILES CITY	GREAT FALLS	KALISPELL	MISSOULA	TOTAL
TOURIST HOMES	7	171	3	7		106	25 319
HOTEL/LODGING	21	56	31	73		330	151 662
BED & BREAKFAST	18	71	7	14		58	60 228
FIRE PROTECTION	10	25	4	12		15	18 84
STATE BLDGS *	50	26	18	26		69	16 205
INSTITUTIONAL	10	10	13	6		7	35 81
UNIVERSITY	HCT = 2	0	0	Havre = 24 bldg	2 campuses - 16 bldg	UM=361	403
Totals	118	359	76	162		601	666 1982

* ESTIMATES OR UNAVAILABLE

State Prison 27
Warm Springs Hospital Martz Center Watch Program Development Center

These types of occupancies are not as high on our priority list as the ones we do on a regular basis. Inspections from the above list are done on a request or complaint basis.