

SENATE BILL NO. 5

INTRODUCED BY J. WINDY BOY

BY REQUEST OF THE EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE ESTABLISHMENT OF AND FUNDING FOR DEPLOYMENT OF ALL-HAZARD INCIDENT MANAGEMENT ASSISTANCE TEAMS; ALLOWING FOR COSTS INCURRED BY A TEAM TO BE PAID USING INCIDENT RESPONSE EXPENDITURE AUTHORITY; REQUIRING RULES PROMULGATED BY THE STATE EMERGENCY RESPONSE COMMISSION TO INCLUDE CERTAIN PROCEDURES FOR TEAMS AND TEAM MEMBERS; AND AMENDING SECTIONS 10-3-103, 10-3-310, AND 10-3-1204, MCA."

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

Section 1. Section 10-3-103, MCA, is amended to read:

"10-3-103. Definitions. As used in parts 1 through 4 of this chapter, the following definitions apply:

(1) "All-hazard incident management assistance team" means a team that includes any combination of personnel representing local, state, or tribal entities that has been established by the state emergency response commission provided for in 10-3-1204 for the purpose of local incident management intended to mitigate the impacts of an incident prior to a disaster or emergency declaration.

(2) "Civil defense" means the nuclear preparedness functions and responsibilities of disaster and emergency services.

(3) "Department" means the department of military affairs.

(4) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or artificial cause, including tornadoes, windstorms, snowstorms, wind-driven water, high water, floods, wave action, earthquakes, landslides, mudslides, volcanic action, fires, explosions, air or water contamination requiring emergency action to avert danger or damage, blight, droughts, infestations, riots, sabotage, hostile military or paramilitary action, disruption of state services, accidents involving radiation byproducts or other hazardous materials, outbreak of disease, bioterrorism, or incidents involving weapons of mass destruction.

(5) "Disaster and emergency services" means the preparation for and the carrying out of disaster and

1 emergency functions and responsibilities, other than those for which military forces or other state or federal
2 agencies are primarily responsible, to mitigate, prepare for, respond to, and recover from injury and damage
3 resulting from emergencies or disasters.

4 ~~(5)~~(6) "Disaster medicine" means the provision of patient care by a health care provider during a disaster
5 or emergency when the number of patients exceeds the capacity of normal medical resources, facilities, and
6 personnel. Disaster medicine may include implementing patient care guidelines that depart from recognized
7 nondisaster triage and standard treatment patient care guidelines determining the order of evacuation and
8 treatment of persons needing care.

9 ~~(6)~~(7) "Division" means the division of disaster and emergency services of the department.

10 ~~(7)~~(8) "Emergency" means the imminent threat~~(8)~~ of a disaster causing immediate peril to life or property
11 that timely action can avert or minimize.

12 ~~(8)~~(9) (a) "Incident" means an event or occurrence, caused by either an individual or by natural
13 phenomena, requiring action by disaster and emergency services personnel to prevent or minimize loss of life
14 or damage to property or natural resources. The term includes the imminent threat of an emergency.

15 (b) The term does not include a state of emergency or disaster declared by the governor pursuant to
16 10-3-302 or 10-3-303.

17 ~~(9)~~(10) "Political subdivision" means any county, city, town, or other legally constituted unit of local
18 government in this state.

19 ~~(10)~~(11) "Principal executive officer" means the mayor, presiding officer of the county commissioners,
20 or other chief executive officer of a political subdivision.

21 ~~(11)~~(12) "Temporary housing" means unoccupied habitable dwellings, suitable rental housing, mobile
22 homes, or other readily fabricated dwellings.

23 ~~(12)~~(13) "Tribal government" means the government of a federally recognized Indian tribe within the state
24 of Montana.

25 ~~(13)~~(14) "Volunteer professional" means an individual with an active, unrestricted license to practice a
26 profession under the provisions of Title 37, Title 50, or the laws of another state."

27

28 **Section 2.** Section 10-3-310, MCA, is amended to read:

29 **"10-3-310. Incident response -- authority -- appropriation -- expenditures -- recovery -- rules. (1)**

30 The governor may by executive order upon request of the local governing body, its authorized agent, or a tribal

1 government activate that part of the state disaster and emergency plan pertaining to incident response. The order
2 may be issued for any year, for any part of a year, or upon occurrence of an incident.

3 (2) Upon approval of an executive order pursuant to this section:

4 (a) that part of the state disaster and emergency plan pertaining to incidents becomes effective;

5 (b) the division may use any of the resources usable by the division during a state of emergency or
6 disaster to respond to the incident; and

7 (c) there is statutorily appropriated, as provided in 17-7-502, to the office of the governor, and the
8 governor is authorized to expend from the general fund an amount not to exceed \$10,000 per incident and not
9 to exceed \$100,000 for incidents in a biennium.

10 (3) The governor may authorize the incurring of liabilities and expenses to be paid as other claims
11 against the state from the general fund, in the amount necessary, upon activation of the incident response portion
12 of the state disaster and emergency plan. Money appropriated by this section may be used only for incident
13 response costs of the state and ~~may not be used to reimburse a local government or tribal government for~~
14 ~~incident response costs incurred by that local government or tribal government~~ incident response costs incurred
15 by an all-hazard incident management assistance team established under 10-3-1204.

16 (4) In the event of recovery of money expended pursuant to this section, the spending authority must
17 be reinstated to the level reflecting the recovery.

18 (5) The department may adopt rules to implement this section."
19

20 **Section 3.** Section 10-3-1204, MCA, is amended to read:

21 **"10-3-1204. State emergency response commission -- members -- duties -- establishment of**
22 **incident response and incident management teams.** (1) There is a state emergency response commission
23 that is attached to the department for administrative purposes. The commission consists of 29 members
24 appointed by the governor. The commission must include representatives of the national guard, the air force, the
25 department of environmental quality, the division, the department of transportation, the department of justice, the
26 department of natural resources and conservation, the department of public health and human services, a fire
27 service association, the fire services training school, the emergency medical services and trauma systems section
28 of the public health and safety division in the department of public health and human services, the department
29 of fish, wildlife, and parks, the department of agriculture, Montana hospitals, an emergency medical services
30 association, a law enforcement association, an emergency management association, a public health-related

1 association, a trucking association, a utility company doing business in Montana, a railroad company doing
2 business in Montana, Montana's petroleum industry, Montana's insurance industry, the university system, a tribal
3 emergency response commission, the national weather service, the Montana association of counties, the
4 Montana league of cities and towns, and the office of the governor. At least one representative must be a member
5 of a local emergency planning committee. Members of the commission serve terms of 4 years and may be
6 reappointed. The members shall serve without compensation. The governor shall appoint two presiding officers
7 from the appointees, who shall act as copresiding officers.

8 (2) The commission shall implement the provisions of this part. The commission may create and
9 implement a state hazardous material incident response team to respond to hazardous material incidents. The
10 members of the team must be certified in accordance with the plan.

11 (3) The commission may enter into written agreements with each entity or person providing equipment
12 or services to the state hazardous material incident response team.

13 (4) The commission or its designee may direct that the state hazardous material incident response team
14 be available and respond, when requested by a local emergency response authority, to hazardous material
15 incidents according to the plan.

16 (5) The commission may contract with persons to meet state emergency response needs for the state
17 hazardous material incident response team.

18 (6) The commission may advise, consult, cooperate, and enter into agreements with agencies of the
19 state and federal government, other states and their state agencies, cities, counties, tribal governments, and other
20 persons concerned with emergency response and matters relating to and arising out of incidents.

21 (7) The commission may encourage, participate in, or conduct studies, investigations, training, research,
22 and demonstrations for and with the state hazardous material incident response team, local emergency
23 responders, and other interested persons.

24 (8) The commission may collect and disseminate information relating to emergency response to
25 incidents.

26 (9) The commission may accept and administer grants, gifts, or other funds, conditional or otherwise,
27 made to the state for emergency response activities provided for in this part.

28 (10) The commission may prepare, coordinate, implement, and update a plan that coordinates state and
29 local emergency authorities to respond to incidents within the state. The plan must be consistent with this part.
30 All state emergency response responsibilities relating to an incident must be defined by the plan.

1 (11) The commission has the powers and duties of a state emergency response commission under the
2 federal Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001, et seq., except that
3 the division shall oversee the creation, annual local review, and exercise and revision of the local emergency
4 operations plan as provided by state law.

5 (12) The commission shall promulgate rules and procedures limited to cost recovery procedures,
6 certification of state hazardous material incident response team members and all-hazard incident management
7 assistance team members, and deployment of the state hazardous material incident response team and
8 all-hazard incident management assistance teams, which must be a part of the plan.

9 (13) The commission shall act as an all-hazard advisory board to the division by:

10 (a) assisting the division in carrying out its responsibilities by providing the division with
11 recommendations on issues pertaining to all-hazard emergency management; ~~and~~

12 (b) authorizing the establishment of subcommittees to develop and provide the recommendations called
13 for in subsection (13)(a); and

14 (c) establishing all-hazard incident management assistance teams.

15 (14) The commission shall appoint the members of the Montana intrastate mutual aid committee provided
16 for in 10-3-904.

17 (15) All state agencies and institutions shall cooperate with the commission in the commission's efforts
18 to carry out its duties under this part."

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